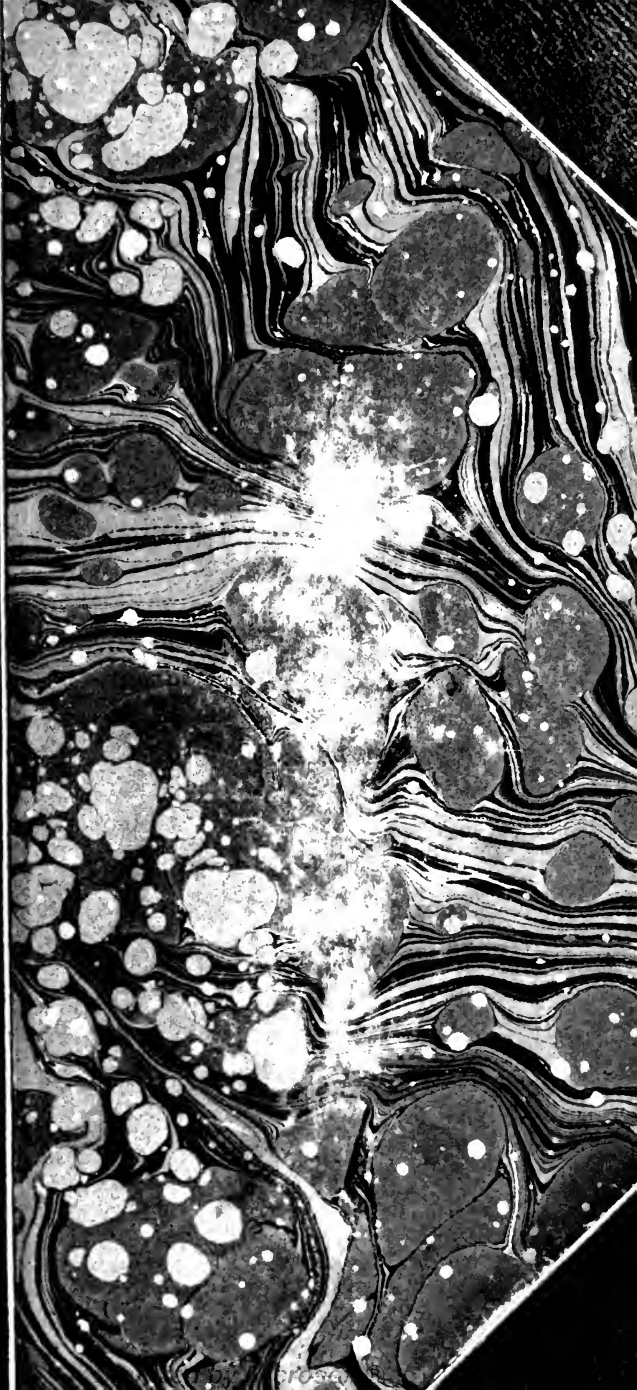
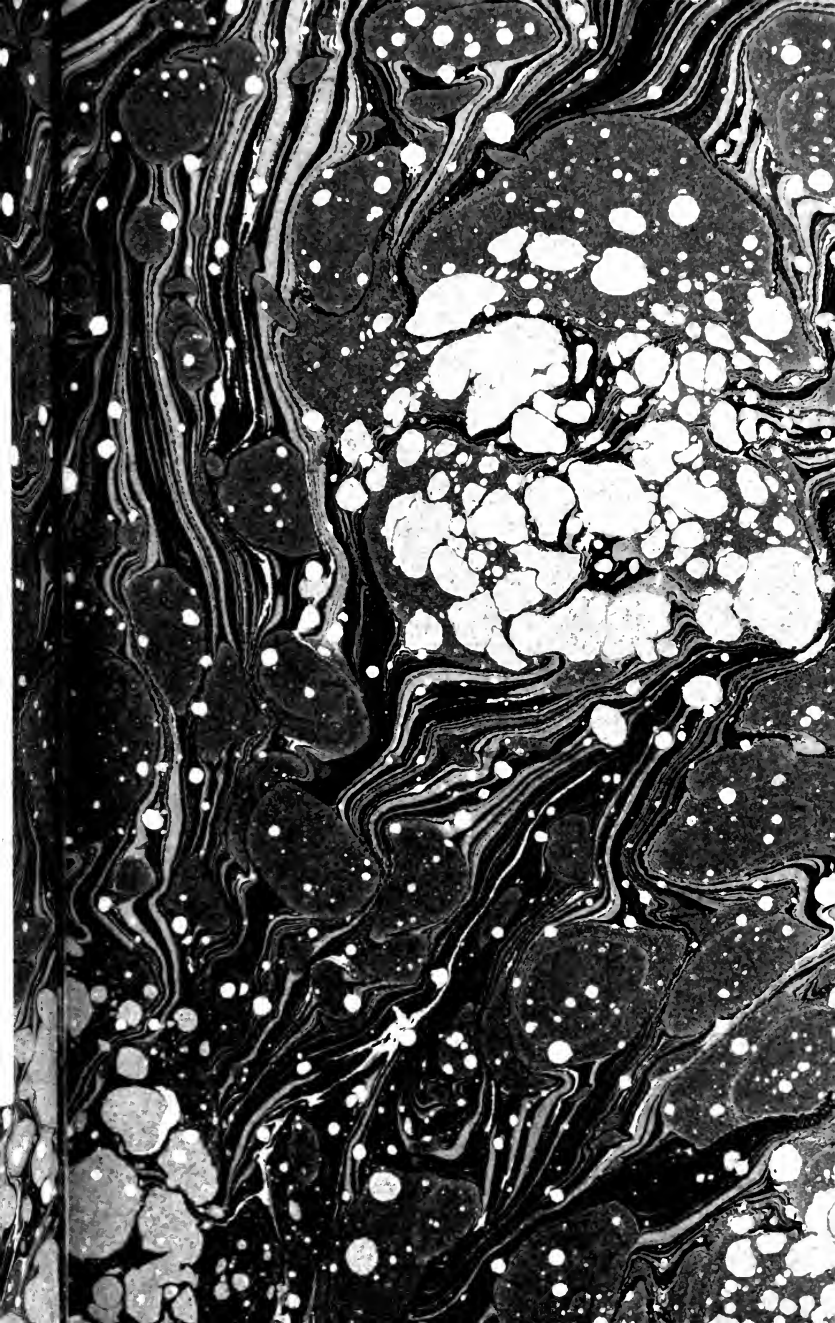


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Alfred Mellor Watkin.



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COLONEL JOHN LILBURNE.

BRATED TRIALS,

AND

Remarkable Cases

OF

CRIMINAL JURISPRUDENCE.

FROM

THE EARLIEST RECORDS

TO

THE YEAR 1825.

[*ed. George Murray*]

"THE Annals of Criminal Jurisprudence exhibit human nature in a variety of positions, at once the most striking, interesting, and affecting. They present tragedies of real life, often heightened in their effect by the grossness of the injustice, and the malignity of the prejudices which accompanied them. At the same time real culprits, as original characters, stand forward on the canvas of humanity as prominent objects for our special study. I have often wondered that the English language contains no book like the *Crimes Célèbres* of the French, particularly as the openness of our proceedings renders the records more certain and accessible, while our public history and domestic conflicts have afforded so many splendid examples of the unfortunate and the guilty. Such a collection, drawn from our own national sources, and varied by references to cases of the continental nations, would exhibit man as he is in action and in principle, and not as he is usually drawn by poets and speculative philosophers."

BURKE.

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REMARKABLE TRIALS,

AND

CELEBRATED CRIMINALS.

THOMAS, EARL OF STRAFFORD,

FOR HIGH TREASON, MARCH 12, 1643.

IN the parliament which began the 3d of November, 1640, Mr. Pym, one of the chief of the country or patriotic party in the House of Commons, moved on the 11th, That the doors might immediately be locked, as he had matters of importance to communicate to the House; which being agreed to, he made a severe speech against the Earl of Strafford, declaring he was the greatest enemy to liberty, and the greatest promoter of tyranny and arbitrary power, that any age had produced; and being seconded by some gentlemen of the same party, it was resolved to impeach the Earl of high treason.

On the 25th of November, Mr. Pym carried up nine articles against the Earl; and on the 30th of January, 1640, they sent up twenty-eight special articles against him, in which the former were comprehended.

1. They charge, That the Earl being President of the North, did on the 21st of March, 8 Car. produce a commission, with instructions, directed to himself and others, empowering them to determine all misdemeanors and offences in the North; and particularly, they were appointed to proceed according to the course of the Star Chamber against divers offences; and to proceed according to the course of the Court of Chancery concerning lands, and grant injunctions to the Common Law Courts: and that he exercised those powers over the persons and estates of several, depriving them of their estates and possessions, and fined and imprisoned them, to their utter ruin; and particularly Sir Conyers Darcy and Sir John Bouchier: That he procured directions, that no prohibition should be granted; and that none should be discharged on a Habeas Corpus, till they had performed their decrees; and that on the 13th of the King, he caused the commission to be renewed, with additional instructions.

2. That, soon after his procuring the first commission, he declared at the assizes at York, that since some of the justices of peace were all for law, they should find the king's little finger heavier than the loins of the law, in order to terrify the said justices, that they should not execute the laws.

3. That, in a speech to the nobility of Ireland, and the corporation of Dublin, the Earl declared Ireland was a conquered kingdom; that the king might do what he pleased with them; their charters were worth nothing, and bound the king no farther than he pleased.

4. That Richard Earl of Cork having commenced a suit for the recovery of his possessions, of which he was dispossessed by an order of Council, the Earl threatened to imprison him, if he did not drop his suit; and said he would have neither the law nor lawyers dispute his orders; adding, That he would make the Earl of Cork and all Ireland know, that as long as he had the government, an act of state should be as binding to that kingdom as an act of parliament.

5. And that he did accordingly exercise his power on the goods, inheritances, liberties, and lives of the subjects there, to the subversion of the laws of that kingdom; particularly, that he did, in time of full peace, cause the Lord Mountnorris to be condemned to death by a council of war; and caused sentence of death to be pronounced against another person (whose name was unknown) at Dublin, and he was executed in pursuance of it.

6. That, on a paper petition, he caused the said Lord Mountnorris to be disseised of his manor of Tymore.

7. That he caused the case of tenures on defective titles to be drawn up, procuring the resolutions of the judges thereupon; by colour of which he caused the Lord Thomas Dillon and divers others, to be dispossessed of their freeholds, to the ruin of many hundred families.

8. That on the petition of Sir John Gifford, he made an order against Adam Viscount Loftus, Lord Chancellor of Ireland, and, under pretence of disobedience to the said order, caused him to be imprisoned, and to surrender the great seal: That he imprisoned the Earl of Kildare, in order to make him submit his title to the manor of Castle-Leigh to his pleasure, and kept him in prison a year, refusing to enlarge him, though directed to do it by his Majesty's letters: That he caused an order of council to be entered against Dame Mary Hibbotts, although a major part of the council was for the lady; and forced her to relinquish her estate, which was soon after conveyed to Sir Robert Meredith, to the use of the Earl of Strafford; and that he imprisoned several others, on pretence of disobedience to his orders, for pretended debts, titles to lands, &c. in an arbitrary extra-judicial course, upon paper petitions.

9. That he granted a commission to several bishops, their respective chancellors and officers, to commit the meaner sort of people to prison, who should not obey their decrees.

10. That he farmed the customs of Ireland, and, to advance his gain, caused the native commodities to be over-rated; and the customs, which formerly were but a twentieth part of the value of the goods, were now a fourth, a fifth, and some of them a third part of the value.

11. That he extorted great sums from the subject, for licences to export divers sorts of goods.

12. That he issued a proclamation against the importation of tobacco, and then caused great quantities to be imported for his own use; and would not permit the merchants to vend their tobacco, unless they would let him have it at his own price: That he issued another proclamation, commanding all tobacco to be seized that was not sealed by his agents; and those on whom unsealed tobacco was found, were fined, whipped, imprisoned, or pilloried; by which means he gained an hundred thousand pounds; and though he raised the customs on other articles, he lessened them in this, from sixpence to three-pence a pound, for his own profit; and that, by the like undue means, he constituted divers others monopolies.

13. That he commanded the Irish, by proclamation, to work their flax and yarn into thread, in a manner they were unskilled in, and seized the flax that was otherwise wrought; whereby he gained the sole sale of that native commodity.

14. That he imposed an unlawful oath on the owners and masters of ships, by proclamation requiring them to give an account of their lading, their owners, from whence they came, and whither bound.

15. That, contriving to bring the realm of Ireland under his tyranny, he imposed great sums on the town of Baltimore, and divers other places, which he levied by troops of soldiers: That particularly he impowered Robert Saville, serjeant at arms, and several captains, to quarter soldiers on such of the inhabitants as would not act conformable to his orders: That he dispossessed Richard Butler, and above an hundred families, of their estates by a military force, imprisoning the proprietors, till he compelled them to relinquish their respective interests, levying war against his Majesty, and his liege people of that kingdom.

16. That, to continue his oppressions on the subjects of Ireland, he prevailed on his Majesty, not to suffer any complaints to be received in England; and issued a proclamation, prohibiting all, who had any estates or offices in Ireland, to depart the kingdom without licence; and imprisoned several that came over to England to complain against him.

17. That he affirmed his Majesty was so well pleased with his army in Ireland, and the consequences it produced, that he would make it a pattern for all his three kingdoms.

18. That in order to make the papists of England and Ireland to depend on him he restored several religious houses to their pretended owners; particularly two in Dublin, which had been assigned to the university there, which were now employed in the exercise of the Popish religion. That he raised an army, of which seven thousand were papists; and that, to engage this new army to him, he paid them duly, and permitted them to exercise their religion; whereas the old army were kept without their pay for a whole year: And, that being a commissioner for compounding forfeitures for recusancy, in the northern counties of England, he compounded with the recusants there at very low rates, and discharged them from all process, in order to engage them to him.

19. That he imposed an oath on the subjects of Ireland, requiring

them to swear, that they would not protest against any of his Majesty's commands, but submit obediently to them, fining, imprisoning, and banishing the refusers; and particularly, that he fined Henry Steward and his wife 5000*l.* a-piece, and imprisoned them for non-payment: that he declared the said oath did not only oblige them in point of allegiance, but to the ceremonies and government of the church established, or to be established by his Majesty; and gave out that those who refused to take it, he would prosecute to blood.

20. That he endeavoured to create in his Majesty an ill opinion of the Scots, and excited him to an offensive war against them, since the pacification: that he was the chief incendiary, declaring that the Scots' demands in parliament were a sufficient cause to make war upon them; that they were rebels and traitors; and, if his Majesty pleased, he would root them out of Ireland, except they took the oath in the preceding article; and that he caused several Scottish ships to be seized, to engage the kingdoms in war.

21. That, having incited his Majesty to carry on an offensive war against Scotland, he advised him to call a parliament, but that if they did not concur in the Earl's mischievous projects, they should be dissolved, and money raised on the subjects by force; declaring in Council, that he would serve his Majesty any other way, in case the parliament did not supply him.

22. That he procured the parliament of Ireland to declare they would assist the king against the Scots; and conspired with Sir George Ratcliffe to employ the army of Irish Papists he had raised, to the subversion of the government of England; declaring that, if the parliament would not supply his Majesty, he was at liberty to use his prerogative for what he needed; and that he would be acquitted both by God and man for so doing.

23. That, the last parliament taking the grievances of the kingdom into consideration, the Earl and Archbishop Laud advised his Majesty, by several speeches and messages, to urge the Commons to grant a supply for the war against Scotland, before they entered on their grievances: and that a demand being made by his Majesty of twelve subsidies, in lieu of ship-money; while the Commons were debating on the supply, the said Earl and the Archbishop moved his Majesty to dissolve that parliament, and the Earl then incensed his Majesty against the members, telling him, "they had refused to supply him, and that his Majesty having tried the affections of his people, and been refused, he was absolved from all rules of government, and that he had an army in Ireland, which he might employ to reduce this kingdom."

24. That he falsely declared to others of the privy-council, that the parliament having forsaken the king, and denied him a supply, they had given him an advantage to supply himself by such other ways as he saw fit; and that he was not to suffer himself to be mastered by the frowardness of his people. And that the Earl, the Archbishop, and the Lord-Keeper Finch, published a scandalous book in his Majesty's name, entitled, "The causes that moved his Majesty to dissolve the last parliament," full of bitter invectives against the Commons.

25. That he advised the levying of ship-money, and procured the

Sheriffs to be prosecuted for not levying it, and several to be imprisoned for not paying it; and advised, that the Lord Mayor of London, the Aldermen, &c. should be summoned before the council, to give an account of their proceedings in levying ship-money, and concerning the loan of an hundred thousand pounds demanded of them by the king; and on their refusing to certify who were fit to lend, the earl said, they deserved to be fined; there was no good to be done with them till they were laid by the heels, and some of the Aldermen hanged up.

26. That he caused 150,000*l.* belonging to his Majesty's subjects and foreigners, to be seized in the Mint; and when it was represented what a prejudice this would be to the kingdom, said, that the city had dealt undutifully, and were readier to help the rebels than his Majesty; and that it was the practice of other princes to use such money to serve their occasions; that the French King used to send commissaries of horse to take account of men's estates, and levy money on them by force; and, directing his discourse to the Lord Cottington, said, this was a course worthy to be considered by his Lordship.

27. That, being Lieutenant-General in the north, he imposed a tax of eight pence a day for every soldier of the militia in that county, and levied it by force, declaring, that those who refused it, were guilty of little less than high-treason.

28. That, receiving advice of the Scottish army's bending its march towards England, he did not provide for the defence of Newcastle; but suffered it to fall into their hands, to incense the English against the Scots; and in order to engage the two nations in a bloody war, he ordered the Lord Conway to fight the Scots at the passage of the Tine; though he had represented, he had not force sufficient to encounter them; whereby he betrayed his Majesty's army to apparent danger and loss; all which the Earl had done, with an intent to create a division between his Majesty and his people, and to destroy him and his kingdoms; and for which they impeached him of high treason.

The place appointed for the trial, was the great hall in Westminster, where there was a throne erected for the king, on each side thereof a cabinet enclosed about with boards, and before with a terrace. Before that, were the seats of the Lords of the Upper House, and sacks of wool for the Judges; before them, ten stages of seats, extending farther than the midst of the hall, for the gentlemen of the House of Commons; at the end of all was a desk closed about, and set apart for the Lord Lieutenant and his counsel.

Monday morning, about seven of the clock, he came from the Tower, accompanied by six barges, wherein were one hundred soldiers of the Tower, all with partizans for his guard, and fifty pair of oars. At his land-

ing at Westminster, he was attended by two hundred of the trained bands, and went in guarded by them into the hall. The entries at Whitehall, King-street, and Westminster, were guarded by the constable and watchmen, from four of the clock in the morning, to keep away all low and idle persons.

The king, queen, and prince, came to the House about nine of the clock, but kept themselves private within their closets, only the prince came out once or twice to the cloth of state; so that the king saw and heard all that passed, but was seen by none. Some gave the reason of this from the received practice of England in such cases: others say, that the Lords did intreat the king either to be absent, or to be there privately, lest it might be pretended hereafter, that his being there was for no other purpose than to interrupt the course of justice: others assert, that the king was not willing to be accessary to the process till it came to his part, but rather chose to be present, that he might note and understand what violence, rigour, or injustice happened.

When the Lieutenant entered the Hall, the porter of the Hall (whose office it is) asked Mr. Maxwell, whether the axe should be carried before him or no? who answered, that the king had expressly forbidden it; nor was it the custom of England to use that ceremony, but only when the party accused was to be put upon his jury. Those of the Upper House did sit with their heads covered, those of the Lower House uncovered. The bishops upon the Saturday before voluntarily declined the giving of their suffrages in matters criminal, and of that nature, according to the provision of the canon law, and practice of the kingdom to this day, and therefore would not be present; yet withal they gave in a protestation, that their absence should not prejudice them in that or any other of their privileges, as Lords Spiritual in Parliament, which was accepted.

The Earl of Arundel, as Lord High Steward of England, sat apart by himself, and at the Lieutenant's entry commanded the House to proceed. Mr. Pym, being speaker of the committee for his accusation, gave in the same articles which were presented at his last hearing before the Upper House, which being read, his supplies

were subjoined and read also ; the very same which were presented before in the Upper House. Some give the reason of this, because the Lower House had not heard those accusations in public before ; others, that the formality of the process required no less ; however, that day was spent in that exercise.

The queen went from the House about eleven of the clock, the king and prince staid till the meeting was dissolved, which was after two. The Lieutenant was sent to the Tower by his guard, and appointed to return upon Tuesday, at nine of the clock in the morning. The crowd of people was neither great nor troublesome ; all of them saluted him, and he them with great humility and courtesy, both at his entrance and at his return ; how ridiculous then was the following rumour about the malice and discontent of the multitude : " That if he pass the stroke of justice, they will tear him in pieces ; " yet we see there is more in rumour than in sight and appearance, and in this report, as in all others of this nature, more is thrust upon the vulgar (who seem as fearful of punishment as exposed to it, in spite of their great number) than they justly deserve.

On Tuesday in the morning he came accompanied as before to Westminster ; and having staid in the Exchequer-Chamber till nine of the clock, the king, queen, and prince came, as before upon the first day.

Then Mr. Pym being called for, aggravated the charge, which was given the day before, by a very ample speech. The main points were, that it was treason far beyond the reach of words, that he the Lieutenant, a native subject, and a peer of England, the prime governor of Ireland, the commander of his Majesty's forces, and a protestant in religion, should have in such an impious and gross manner recompensed his Majesty's favours, abused his goodness, and drawn all his dominions into hazard and peril of their religion, lives, goods, and privileges ; that one of these faults alone had been enough, and too much, for the fulfilling of the exorbitancy and wickedness of any one man ; and that no punishment could be thought of, sufficient to expiate crimes of such a transcendent nature.

The Lieutenant spoke in his own defence, and that with such eloquence, that his enemies were affected.

He recounted his services done to the King and crown

of England, his endeavours for the advancement, as well of the honour as interest of both kingdoms in general, but in particular that of Ireland; how he had advanced the King's revenues there, restored the church's maintenance, suppressed the outlaws, established obedience to royal authority, and overawed the tyranny and usurpation of greater ones over the Commons. And for the effecting of all these actions, he mentioned himself the most weak and meanest instrument.

Mr. Pym, after the close of his speech, told him that there were three new articles adjoined (by an after search) to his charge; and desired that he might presently reply to the same.

Whereunto the Lieutenant answered, it was very strange, that after the close of the process, and when matters were come to be scanned, and examined by proof, that any new charge should be given in; yet lest he should seem to decline the maintenance of his own innocency, and the just defence of his honour, he was most willing to hear them and have them alledged, provided that a convenient time might be assigned him to make his replies against them, as he had done to the others given in before.

But Mr. Pym excepted against this, and told him that the House did conceive it to be dangerous to grant any farther prorogation.

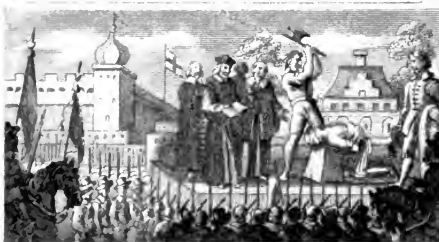
Upon this, the Lords of the Upper House (who did not think it fit as yet to voice any particular in the audience of the House of Commons) retired, and after some stay, they returned and declared, that they had found the Lieutenant's suit to be equitable, in desiring further time for answering; yet, seeing that the articles themselves, neither for number or weight, seemed to be of sufficient importance to prevent his giving a present answer, they thought it fitting to grant no delay.

The names of his accusers were—Pym, Glyn, Maynard, Whitlock, Lord Digby, St. John, Palmers, Sir Walter, Earles, Stroud, Selden, Hampden, &c.—One of these began, and the rest, after their colleague had done, followed in their turn; so that he had all of them to contend against; though his spirits were much exhausted.

On Thursday he was charged with the second expression, "That he said Ireland was a conquered kingdom,



EARL OF STRAFFORD.



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and that the king might prescribe them what law he pleased."

On Friday the two other expressions were followed; that he said, "He would not suffer his ordinances to be disputed by lawyers, before inferior judicatories, and that he would make an act of state equivalent to an act of parliament."

Lord Cork, declared upon his oath, that the Lieutenant had caused to be interlined an ordinance against himself, and had caused some words to be scraped out; which words were notwithstanding still found to be in the sentence, by an authentic copy under the hand of Sir Paul Davison, Clerk to the council-board of Ireland; that he had advanced a groom of his to be a preacher; who by a testimony from the University of Dublin he verified to have been a master of arts ten or twelve years before his advancement.

On Tuesday they passed by the 7th article, and the two first parts of the 8th, about the Lady Hibbot's land; that he had violently thrust her from her possession by this summary way of justice, and afterwards purchased the land to his own house, by borrowing the name of Sir Robert Meredith. The testimony of the gentlewoman's son was adduced, of Lord Cork, and Lord Mountnorris.

After the 9th article was passed, against the commission issued in favour of the Bishop of Downe and Connor; upon Wednesday Mr. Glyn proceeded to the 10th article. For proof, they produced the lease of the Duke of Buckingham, which was read and compared with that lease to the Duchess of Buckingham, and some differences shewn, arising to the sum of two thousand pounds in the Duke's lease; only the moiety of concealed and forfeited goods were due to him, but the whole goods to the Duchess in her lease.

Witnesses were examined.

First, Sir James Hay, who deposed, that the Earl of Carlisle had an advantage of one thousand six hundred pounds per annum by his lease of wines.

Secondly, the Lord Ranelagh, who deposed, that by the inspection of the books of accompts, he had found the custom to be anno 1636 thirty-six thousand pounds,

anno 1637 thirty-nine thousand pounds, anno 1638 fifty-four thousand pounds, anno 1639 fifty-nine thousand pounds.

The same day Mr. Palmer charged, that the Lord Strafford, having by a tyrannical power inverted the ordinary course of justice, and given immediate sentence upon the lands and goods of the king's subjects, under pretence of disobedience, had used a military way for redressing of the contempt, and laid soldiers upon the lands and goods of the king's subjects, to their utter ruin.

The Lord Lieutenant's reply was, that in all the course of his life he had intended nothing more than the preservation of the lives, goods, and welfare of the king's subjects; and that he dared profess, that under no other deputy had there been a more free and uninterrupted course of justice.

To this the Lord Dillon, Sir Adam Loftus, and Sir Arthur Teringham, deposed; the last of whom told, that in Falkland's time he knew twenty soldiers quartered upon a man for refusing to pay sixteen shillings sterling.

The same day, Mr. Whitlock rested on the 19th article, about the oath administered to the Scots in Ireland, and for proof of this, Sir James Mountgomery was produced; who declared at large how that oath was contrived.—Sir Robert Maxwell of Orchardon, who spake to the same purpose.—Sir John Clotworthy, who declared that a great number had fled the kingdom for fear of that oath.—And Mr. Samuel, who deposed, that upon the tenth of October, 1638, he heard the deputy say these words, "That if he returned, he would root them out stock and branch,"

The proofs for the Scots charges, were these:

Lord Traquair, who was very favourable to the Lord Lieutenant, and spake nothing to his disadvantage but what was extorted from him, he admitted, that when he gave in the demands, he heard Strafford say, "that it was high time for the king to put himself into a posture of war;" but that first all the council of England said the same as well as he. Secondly, That it was a double supposition: 1. That the demands were truly given in. 2. That there was no other remedy left but arms, to reduce them.

The Earl of Morton's testimony (being sick himself)

was produced, and it was one and the same with the article.

Sir Henry Vane was examined, who declared, that he had heard the Lieutenant to advise the king to an offensive war, when his own judgment was for a defensive.

The testimony of the Earl of Northumberland was produced, which was the very same with Sir Henry Vane's.

The Treasurer of England deposed the same with Traquair.

One Beane, from Ireland, said, that he had known ships seized there; but by whose procurement or warrant he knew not.

To the articles about England :

Sir Robert King and the Lord Ranelagh deposed, that Sir Robert King and the Lord Ranelagh had heard Sir George Ratcliff speak those words in the article.

The Primate's testimony (who was sick) was the same with the article.

The Lord Conway deposed the same with the article.

Sir Henry Vane deposed, he had heard those words spoken at the council-board.

For the words spoken after the parliament.

To the first, Sir Thomas Jermyne, Lord Newburg, Earl of Bristol and Earl of Holland, were examined. Bristol spoke plainly, but Holland's testimony was reserved.

Here some of the Lieutenant's friends shewed themselves.

1. LORD SATIL, who desired of Sir Henry Vane to know whether he said their, or this, or that kingdom; and withal said, It was very hard to condemn a man for treason upon such circumstances.

2. The Earl of Southampton desired to know, whether Sir Henry Vane would swear those words positively or not. Sir Henry Vane said, positively either them or the like. The Earl replied, that under favour "those or the like" could not be positive.

3. The Earl of Clare desired to know what could be meant by this kingdom; for his part (he said) he thought it meant of the kingdom of Scotland, to which the word this might very well be relative, that kingdom being only mentioned in the preceding discourse.

Upon Wednesday, Whitlock charged thus :

First, That he had advised the king to a rigorous and unlawful exaction of ship money.

Secondly, That he had given counsel, that if the sheriffs should refuse their best endeavours and assistance to that effect, they should be sent for, and fined by the Star-Chamber, and imprisoned.

Thirdly, That when the Aldermen of London had in all humility represented the causes why the ship-money could not be collected amongst them, and had given in the reasons why they refused to give in a list of their names, within their city, who were able to afford the loan-money ; he in a contemptuous and tyrannical manner, in the face of the council-board, had said to the king : " Sir, these men, because of their obstinacy and frowardness, deserved very well to be fined, ransomed, and laid by the heels ; and it will never go well with your service, until some of them be hanged up for examples to others."

The Evidence was as follows :

The Bishop of London, Lord Treasurer, who declared, that he remembered the words very well, that the Lord Lieutenant had advised the King to cause the ship-money to be gathered in ; but he remembered withal, that both himself and all the council had done the like ; and that it was upon a present necessity, and defect of money for entertaining the army, which (the condition of the times considered) they all conceived, was by any means to be kept on foot.

Alderman Wiseman declared, that upon an humble remonstrance made to the council-board, the city would take it ill, if a tax-roll should be delivered of their estates, who were thought able for the loan-money ; the Lord Strafford said, they ought to be fined, ransomed, and laid by the heels : but as to hanging them up, he heard not a word about it.

The Earl of Berkshire declared that the Lord Strafford had said, that upon the refusal of such a service enjoined by the King's peremptory command, it was his opinion they might be fined.

Alderman Garway attested the preceding words ; and withal added, that the Lord Lieutenant, to his best remembrance, had said, " it were well for the King's service if some of them were hanged up."

Then they went to the 26th article, and the proofs were :

Sir Thomas Edwards, who declared, that in discourse with the Lord Strafford, having remonstrated unto him that their goods were seized on beyond seas, because of

the money taken out of the mint, he told him, "that if the Londoners suffered it, it was deservedly, because they had refused the king a small loan of money upon good security; and that he thought them more ready to help the rebels than the King.

Mr. Palmer declared that he spake something about the King of France; but whether with relation to England, or not, he did not remember.

Sir William Parkise attested in the same words; and withal, that the Lord Cottington was then present, and could declare the whole business.

Sir Ralph Freeman declared, that in a discourse with the Lord Strafford, he had said that the servants in the Mint-House would refuse to work the copper-money; and he replied, "that then it were well to send those servants to the house of correction."

Upon Friday morning, about eight of the clock, the Lieutenant of the Tower, and my Lord's chamber-groom came to the hall, and gave information to the house upon oath, that the Lord Strafford was taken with an exceeding great pain, and fit of the stone, and could not upon any conditions stir out of his bed.

Mr. Glyn replied, that it was a token of his wilfulness, not his weakness, that he had not sent a doctor to testify the same.

The Lord Steward made answer, that a doctor could not be had so soon in a morning, nor was it possible for any physician to give a certain judgment concerning a man's disability by the stone, because there are no outward symptoms that appear.

Mr. Glyn excepted, that if he did not appear upon Saturday morning, he should lose the privilege to speak in his own defence afterwards, and they permitted to proceed.

The Lord Steward replied, that the Lords had appointed four of their number to go to the Tower, and learn the just cause of his stay; and if by any means he were able, he should be obliged to come then: if not, humanity and common equity would excuse him.

Upon Saturday morning he presented himself at the bar, where he expected nothing but repetitions of charges and defences; but meanwhile Mr. Glyn preferred some new proofs concerning the two-and-twentieth article,

which the noble Lord refused, alledging the process was closed. Mr. Glyn answered, the process is not closed, as long as the business stands unrepealed; and that it did not become a prisoner at the bar to prescribe a method of proceeding to the House of Commons.

It was answered by the Lord-Lieutenant, that he thought it stood him in hand as nearly to maintain his life, as it did any to pursue him for it; yet he was willing they should bring in new proofs, provided that he might have time to make new replies, and withal use some new witnesses in some articles that concern his justification.

The Lord Newark, upon these motions, desired the house might be adjourned; after two hours delay, and a hot conflict with the Lords, they returned, and the Lord Steward commanded the order to be read, which consisted of two articles;

First, That as it was granted unto them to bring in proofs concerning the two-and-twentieth article; so it was to the Lord Strafford to make his replies, and use his witnesses concerning the same.

Secondly, That if they went to no more articles no more should the Lord Strafford; but if they did, that he might pitch upon any one article as he pleased.

After prolonged Debates and Discussion, Lord Strafford replied, as follows:

MY LORDS,

This day I stand before you charged with high treason, the burden is heavy, yet far the more, in that it hath borrowed the patrociny of the House of Commons; if they were not interested, I might express a no less easy, than I do a safe issue and good success to the business: but let neither my weakness plead my innocence, nor their power my guilt. If your Lordships will conceive of my defences, as they are in themselves, without reference to either, (and I shall endeavour so to present them) I hope to go away from hence as clearly justified, as I am now in the testimony of a good conscience by myself. My Lords, I have all along my charge watched to see that poisoned arrow of treason, that some men would fain have to be feathered in my heart, and that deadly cup of wine, that hath so intoxicated some petty mis-alledged errors, as to put them in the elevation of high treason; but in truth it hath not been my quickness to discern any such monster yet within my breast, though now perhaps, by a sinistrous information, sticking to my clothes. They tell me of a twofold treason, one against the statute, another by the common law; this direct, that consecutive; this individual, that accumulative; this in itself, that by way of construction.

For the first, I must and do acknowledge, that if I had the least suspicion of my own guilt, I would spare your Lordships the pains, cast the first stone at myself, and pass sentence of condemnation against myself: and whether it be so or not, I refer myself to your Lordship's judgment and declaration. You, and only you, (under the favour and protection of my gracious master) are my judges; under favour, none of the Commons are my Peers, nor can they be my judges. I shall ever celebrate the providence and wisdom of your noble ancestors, who have put the keys of life and death (so far as concerns you and your posterity) into your own hands, not into the hands of your inferiors; none but your own selves know the rate of your noble blood, none but yourselves must hold the balance in dispensing the same.

I shall proceed in repeating my defences, as they are reducible to these two main points of treason: and for treason against the statute, (which is the only treason in effect) nothing is alledged for that, but the fifteenth, two-and-twentieth, and twenty-seventh articles. [Here he brought the sum of all his replies made to these three articles before, and almost in the same words as before; only that testimony of Sir Henry Vane's because it seemed pressing, he stood upon it, and alledged five reasons for the nullifying thereof.]

First, That it was but a single testimony, and would not make faith in a matter of debt, much less in a matter of life and death; yea, that it was expressly against the statute to impeach (much less to condemn) him upon high treason, unless under the testimony of two famous witnesses.

Secondly, That he was dubious in it, and expressed it with an "as I do remember, and such or such like words."

Thirdly, That all the council of eight, except himself, disclaim the words; as if by a singular providence they had taken hold of his ears only.

Fourthly, That at that time the king had levied no forces in Ireland, and therefore he could not be possibly so impudent as to say to the king, "That he had an army there, which he might employ for the reducing this kingdom."

Fifthly, That he had proved by witnesses beyond all exceptions (Marquis Hamilton, the Lord Treasurer, the Earl of Northumberland, Lord Cottington, Sir William Pennyman, and Sir Arthur Terlingham) that there was never the least intention to land those forces in England.

[He went on:]

So much for the articles that concern individual treason.

To make up the constructive treason, or treason by way of accumulation, many articles are brought against me, as if in a heap of felonies or misdemeanors (for in their conceit they reach no higher) some prolific seed, apt to produce what is treasonable, could lurk. Here I am charged to have designed the ruin and overthrow both of religion and state. The first seemeth rather to have been used to make me odious than guilty, for there is not the least proof alledged concerning my confederacy with the popish faction, nor could there be any indeed; never a servant in authority beneath the king my master was ever more hated and maligned by those men than

myself, and that for an impartial and strict execution of the laws against them.

Here your Lordships may observe, that the greater number of the witnesses used against me, either from Ireland or from Yorkshire, were men of that religion: but for my resolution (I thank God) I am ready every hour of the day to seal my disaffection to the church of Rome, with my dearest blood.

But, my Lords, give me leave here to pour forth the grief of my soul before you: these proceedings against me seem to be exceeding rigorous, and to have more of prejudice than equity, that upon a supposed charge of my hypocrisy or errors in religion, I should be made so monstrously odious to three kingdoms; a great many thousand eyes have seen my accusations, whose ears shall never hear, that when it came to the upshot I was never accused of them. Is this fair dealing among Christians? But I have lost nothing by that: popular applause was ever nothing in my conceit; the uprightness and integrity of a good conscience was, and ever shall be, my continual feast; and if I can be justified in your Lordships' judgments from this grand imputation, (as I hope I now am, seeing these gentlemen have thrown down the bucklers) I shall account myself justified by the whole kingdom, because by you, who are the epitome, the better part, yea the very soul and life of the kingdom.

As for my design against the state, I dare plead as much innocence here, as in matter of my religion: I have ever admired the wisdom of our ancestors, who have so fixed the pillars of this monarchy, that each of them keep a due proportion and measure with the other, and have so handsomely tied up the nerves and sinews of the state, that the straining of any one may bring danger and sorrow to the whole œconomy. The prerogative of the crown, and the propriety of the subject, have such mutual relations, this takes protection from that, that foundation and nourishment from this: and as on the lute, if any one string be too high or too lowly wound up, you have lost the harmony; so here the excess of a prerogative is oppression; of pretended liberty in the subject, disorder and anarchy. The prerogative must be used as God does his omnipotency, upon extraordinary occasions; the laws (answerable to that *Potentia ligata in Creaturis*) must have place at other times. And yet there must be a prerogative, if there must be extraordinary occasions; the propriety of the subject is ever to be maintained, if it go in equal pace with this: they are fellows and companions, that are and ever must be inseparable in a well governed kingdom; and no way so fitting, so natural to nourish and entertain both, as the frequent use of parliaments: by those a commerce and acquaintance is kept betwixt the king and subject. These thoughts have gone along with me these fourteen years of my public employments, and shall God willing, to my grave: God, his Majesty, and my own conscience, yea, and all those who have been most accessory to my inward thoughts and opinions, can bear me witness that I ever did inculcate this, that the happiness of a kingdom consists in a just poize of the king's prerogative and the subjects' liberty; and that things would never go well, till they went hand in hand together.

I thank God for it, by my master's favour, and the providence of

my ancestors, I have an estate, which so interesteth me in the commonwealth, that I have no great mind to be a slave, but a subject; nor could I wish the cards to be shuffled over again, upon hopes to fall upon a better set: nor did I ever nourish such base mercenary thoughts, as to become a pander to the tyranny and ambition of the greatest man living. No, I have, and ever shall aim at a fair, but a bounded liberty; remembering always that I am a freeman, yet a subject; that I have a right, but under a monarch. But it hath been my misfortune now, when I am grey-headed to be charged by the mistakers of the times, who are now so highly bent, that all appears to them to be in the extreme for monarchy, which is not for themselves. Hence it is, that designs, words, yea intentions, are brought out for real demonstrations for my misdemeanors: such a multiplying-glass is a prejudicate opinion!

The articles contain expressions and actions: my expressions either in Ireland or England, my actions either before or after these late stirs.

In this order he went through the whole charge, from the first article to the last, in an excellent method, and repeated all the sums and heads of what was spoken by him before; only added in the twenty-eighth article, if that one article had been proved against him, it contained more weighty matter than all the charge besides; and it had not only been treason in him, but also villany, to have betrayed the trust of his Majesty's army. Yet because the gentlemen had been sparing (by reason of the times) to insist upon that article, though it might concern him much, he resolved to keep the same method, and not utter the least expression that might seem to disturb the happy agreement intended, though he wished the same might deceive his expectation: only thus much he admired, how himself, being an incendiary against the Scots in the twenty-third article, is now become their confederate in the twenty-eighth article; or how he could be charged for betraying Newcastle, and for fighting with the Scots at Newborne too, seeing with them was no possible means for betraying the town, but to hinder their passage thither.

That he never advised war farther, than (in his poor judgment) concerned the very life of the king's authority, and the safety and honour of his kingdoms: nor saw he what advantage could be made by a war in Scotland, where nothing could be gained but many hard blows. For his part, he honoured the nation, but he wished they might be ever under their own climate, and had no desire they should be too well acquainted with the better soil of England: but he thought that article had been added in just, or as a supernumerary; and he very little suspected to be reckoned a confederate with the Scots, and wished (as he hoped it was) that every Englishman were as free from that imputation as himself; closing his defence with this speech.

My Lords,—You see what may be alledged for this constructive, rather destructive treason. For my part, I have not the judgment to conceive that such a treason is agreeable either with the fundamental grounds of reason or law; not of reason, for how can that be treason in the lump or mass, which is not so in any of the parts? Or how can that make a thing treasonable, which in itself is not so?

Not of law, since neither statute, common law, nor practice, hath from the beginning of this government ever mentioned such a thing: and where, my Lords, hath this fire, without the least appearance of any smoke, lain hid so many hundred years, and now breaks forth into a violent flame to destroy me and my posterity from the earth? My Lords, do we not live by laws, and must we be punished by laws before they be made? Far better were it to live by no laws at all, but to be governed by those characters of discretion and virtue, that nature hath stamped in us, than to put this necessity of divination upon a man, and to accuse him of the breach of law, before it be a law at all. If a waterman upon the Thames split his boat by grating upon an anchor, and the same have a buoy appending to it, he is to charge his own inobservance: but if it hath none, the owner of the anchor is to pay the loss.

My Lords, If this crime, which they call arbitrary treason, had been marked by any discernor of the law, the ignorance thereof should be no excuse for me; but if there be no law at all, how can it in rigour or strictness itself condemn me? Beware you do not awake these sleeping lions, by the searching out some neglected moth-eaten records, they may one day tear you and your posterity in pieces: it was your ancestors' care to chain them up within the barricadoes of statutes; be not you ambitious to be more skilful and curious than your forefathers in the art of killing.

My Lords, it is my present misfortune, for ever yours; and it is not the smallest part of my grief, that not the crime of treason, but my other sins, (which are exceeding many) have been presented to me before this bar; and except your Lordships' wisdoms provide for it, it may be, the shedding of my blood may make way for the tracing of yours. You, your estates, your posterities lie at the stake. If such learned gentlemen as these, whose tongues are well acquainted with such proceedings, shall be started out against you; if your friends, your counsel denied access unto you; if your professed enemies admitted to witness against you; if every word, intention, or circumstance of yours, be sifted and alledged as treasonable, not because of a statute, but because of a consequence, or construction of lawyers pieced up in a high rhetorical strain, and a number of supposed probabilities; I leave it to your Lordships' consideration, to foresee what may be the issue of such dangerous and recent precedents.

These gentlemen tell me they speak in defence of the commonwealth, against my arbitrary laws; give me leave to say it, I speak in defence of the commonwealth, against their arbitrary treason: for if this latitude be admitted, what prejudice shall follow to king and country, if you and your posterity be by the same disenabled from the greatest affairs of the kingdom? For my poor self, were it not for your Lordships' interest, and the interest of a saint in heaven, who hath left me here two pledges upon earth, [at this his breath stopt, and he shed tears abundantly in mentioning his wife, which moved his very enemies to compassion] I should never take the pains to keep up this ruinous cottage of mine; it is loaded with such infirmities, that in truth, I have no great pleasure to carry it about me any longer; nor could I ever leave it in a better time than this, when I hope the better part of the world would perhaps think, that

by this my misfortune I had given a testimony of my integrity to God, my king, and country. I thank God, I count not the afflictions of this present life comparable to that glory, which is to be revealed in the time to come.

My Lords! my Lords! my Lords! Something more I had to say, but my voice and spirits fail me: only I do in all humility and submission cast myself down before your Lordships' feet, and desire that I might be a pharos to keep you from shipwreck; do not put such rocks in your own way, which no prudence, no circumspection, can eschew or satisfy, but by your utter ruin. And whether your judgments in my case (I wish it were not the case of you all) be either for life or death, it shall be righteous in my eyes, and received with a *Te Deum laudamus*: (and he then lifted up his eyes and said,) *In te Domine confido, ne confundar in æternum.*

The reply of the Commons did not occupy much time; they proceeded article by article, in the same words and tenor as before; only some remarkable flashes of eloquence passed from Mr. Glyn.—He told them, that he should represent the Lord Strafford as cunning in his replies, as he had been crafty in his actions; that he waved all that was material, and insisted only upon the secondary proofs; that it was more than evident throughout all his charge, how he had endeavoured to bring in an arbitrary and tyrannical form of government over the lives, lands and liberties of the King's subjects; yea, had exercised a tyranny over their consciences too, by the oath administered in Ireland: and though his malicious designs had taken no effect, yet no thanks to him, but to the goodness of the King, and the vigilancy of the peers, had they pleased, it had been too late to have punished him; for no rule of law had been left whereby to censure him, after the death and expiration of the laws. And if the intention of *Guido Faux* might be thought treason, though the house was not blown up, then this intention of his may admit the same censure.—That throughout all his defences he had pretended either warrants from the King, or else the King's prerogative; and what was this else but to draw up a cloud, and exhale the vapour for the eclipsing of the bright sun, by the jealousies or repinings of his subjects, if the strength of his piety and justice should not dispel all these mists, and send them down to their original? That the very standing and falling of these three kingdoms stood upon this process; all of which do conceive their safety so far interested in his just punishment, that no settling of

their peace or quiet could be expected without this: that they hoped the law should never protect him, who had gone about to subvert all law; nor the nobility (who had the same blood moving in their veins) by submitting themselves to his base tyranny, lose that privilege and liberty, which their ancestors had brought with their dearest lives. Though there was no statute for this treason, was it the less monstrous? for there was none for so many hundreds of years that durst ever venture upon such insolencies, to occasion such a statute; and were not the fundamental grounds, rules and government sufficient to rise up in judgment against him, without the making a particular statute? This he said he left to the dispute of the law; and concluded, that seeing they had found out the Jonah, who these many years had tossed and hazarded the ship of the commonwealth with continual storms and tempests, there could be no calms expected, but by casting him out into the seas; which, in all justice, they must, and do expect from their hands, who are intrusted by the body of the kingdom to do the same.

Upon Wednesday, the House of Commons perceiving a great defection of their party, and a great increase of the Lord Strafford's friends in both Houses, occasioned by his insinuating, honest, and witty defence, resolved immediately to hear nothing more in public: therefore it was determined upon by his accusers to draw up a bill of attainder, and present the same to the Lords; whereby, first, the matter of fact should be declared to have been sufficiently proved; and then in the matter of law, that he had incurred the censure of treason, for intending to subvert the fundamental laws of the kingdom: for though (said they) he cannot be charged by letter of statute of the twenty-fifth of Edward III. yet he is within the compass of the *salvo*, whereby it is provided, that the King and Parliament hath power to determine what is treasonable, and what not; and that they were confident the Lords would ratify and approve of this bill of theirs, and give judgment accordingly.

The Lords told the house of Commons in their conference on Thursday, that they would go on the same way they did already; and, according to the order of the house, give full audience to the Lord Strafford's

counsel in matter of law, and that they themselves, as competent judges, would by themselves only give sentence in the cause; nor was there any other course suitable to the practice and statutes of the kingdom, the safety of the nobility, or to equity or common justice.

It was replied by the lower house, that they were resolved to go on with their bill, and if the same should be rejected by the Lords, they feared a rupture and division might follow, to the utter ruin and desolation of the whole kingdom, that no content would be given to the subject, unless the man, who had so much intruded upon their right, and discontented the people, was punished as a traitor for an example to the kingdom, that no man had ever found such a favourable hearing; and that the process against Essex, Norfolk, Somerset, were all of them closed in one day.

Thursday, April 29th, was fixed upon for the agitation of the business:—The Lords met at the great hall, at Westminster about nine o'clock, not in their robes, nor did the Lord Steward sit upon his sack, but with the rest promiscuously; nor did the committee for the house of Commons stand at the bar, but sat with the body; and the Earl of Strafford sat behind the place where he used to sit before; the reason of these changes was, because the object was appointed not for a meeting, but for a conference; The king, queen, and prince were there, according to their custom; not a man spake a word in the house all the time, but only Mr. St. John, the King's Solicitor, one of the committee, whose drift and purpose was to furnish the Lords with reasons, why the House of Commons had proceeded with a bill of attainder; and likewise, to reply to what the Lord Strafford had spoken, either by himself, or his council, in matter of law. The speech was in print.

Upon Friday he petitioned the Lords to be heard again, because his lawyers had not fully spoken at their last meeting; but this was denied him, because the Commons were to have the last speech.

Upon this information, the king fearing the inconsistency of the Lords, came to the House on Saturday, at ten o'clock, and having sent for the House of Commons, spake much to this effect.

The King's Speech to the House of Commons.

"THAT he had sincerely, without affection or partiality, endeavoured to inform himself concerning the Lieutenant's charge; and had, at length, seriously pondered with himself, both concerning the matter of fact and the matter of law; and now it stood him in hand to clear their judgments, then to exonerate his own conscience. For them, he had two things to declare :

"First, That there never was such a project, nor had the Lord Strafford ever offered such advice, for the transporting of the Irish army into England; so that in nothing the Lieutenant had been more misunderstood than in that: which imputation did in no small measure reflect on himself (the king) as if he had intended to make war upon his own good subjects; which thought (he said) was far enough from his breast, nor could any man in probability think so unworthily of him, who had perceived how graciously he had dealt with his subjects elsewhere, that had deserved a great deal worse.

"Secondly, That the Lieutenant had never advised him to establish an arbitrary government; nor if he had, should he have escaped condign punishment; nor would any of his good subjects ever think otherwise, unless they conceived him either to be a fool or a tyrant; that he either could not or would not discern such wickedness. He was well content (he said) with that authority and power which God had put into his hands; nor should he ever think it his prerogative to intrude upon the propriety of the subject.

"For himself and his own conscience, (he said) he was now to declare, that in his own judgment, there was nothing in the process against the Lieutenant, that deserved the censure of treason. Oversights and misdemeanors there were, in such a measure, that he confessed the Lord Strafford was never worthy hereafter to bear any office in his kingdoms, no, not so much as of a constable; but was to be answerable for all his errors, when they were to be charged upon him; and to this none of them should concur with greater alacrity than himself. That he hoped none of them would deny to give him the privilege of the first voice, which was, That he would never in heart nor hand, concur with them to punish this man as a traitor; and desired therefore, that they would think of some other way how the business might be composed; nor should it ever be less dear to him (though with the loss of his dearest blood) to protect the innocent, than to punish the guilty."

Upon Saturday, May 8, the bill against the Lord Strafford passed the Lords; there were forty-five present, of which nineteen voted for him, and twenty-six against him. The greater part of his friends absented themselves under pretence (whether true or suppositious) that they feared the multitude. On Sunday the king was resolute never to sanction the bill, telling them, That it

seemed strange to him that the man could not die, unless he, and he only, by giving a sentence he disapproved of, should condemn him.

But at last *victus dedit manus* ; being overcome with such incessant importunities, he yielded. And about nine o'clock at night the king promised to sign both the bills the next morning ; which was accordingly done, and a commission drawn up for his execution.

The Commons were overjoyed at the passing these two bills, and returned his Majesty their thanks for his extraordinary condescension, assuring him, *They would make him a glorious king, and richer than any of his predecessors* : but whatever they then designed to make him, certain it is, he became from that hour dependent on the Parliament, and by giving the royal assent to those two acts, resigned his authority and influence over his people.

The king, too late sensible of his error, wrote to the House of Peers, by the prince his son, to entreat that mercy might be shewn the Earl : that they would be content with his perpetual imprisonment ; and endeavour to obtain a conference with the House of Commons, and endeavour to bring them into the same sentiments, adding by way of postscript, “ That if he must die it were charity to reprieve him till Saturday.” But so little influence had these prayers and entreaties, that the Lords let his Majesty know that neither of his intentions could be complied with : Wednesday, the 12th of May, therefore, being appointed for the execution of the Earl, he desired the Lieutenant of the Tower, the evening before, to let him speak with the Archbishop of Canterbury, his fellow-prisoner ; but the Lieutenant answered, he durst not permit him, without an order of Parliament ; whereupon the Earl related to Archbishop Usher, who was then at his Lordship's lodgings in the Tower, what he intended to have said, if he had been permitted to see Archbishop Laud, namely, That he would have desired his Grace to assist him with his prayers that night, and give him his blessing when he went to the scaffold the next day ; he desired also he would be at his window, that he might thank him for all his favours ; and Archbishop Usher delivering the message to Archbishop Laud that evening, his Grace of Canterbury appeared at his window next

morning, as the Earl passed by, when the Earl looking up and demanding his prayers and his blessing, his Grace lifted up his hands, and gave him both; then the Earl making a submissive bow, said, "God protect your innocence," and moved on towards the scaffold, which was erected on Tower-hill. The Lieutenant was desired to take coach, for fear the mob should rush on him as he walked, and pull him to pieces; but the Earl answered, no; he was not afraid to look death in the face, and the people too. Have you a care, says the Earl, that I don't escape; and whether I die by the hands of the executioner or the fury of the people, is to me perfectly indifferent.

Having mounted the scaffold, he saluted the gentlemen he found there, and began to take his last leave of his friends, who appeared much more concerned than himself, and observing his brother, Sir George Wentworth, weep:

"Brother," said he, cheerfully, "what do you see in me to deserve these tears? Does any indecent fear betray in me any guilt, or my innocent assurance any atheism? Think now that you are accompanying me the third time to my marriage bed. Never did I throw off my clothes with greater freedom and content, than in this preparation to my grave. That stock," pointing to the block, "must be my pillow: here shall I rest from all my labours: no envious thoughts, no dreams of treason, jealousies, or cares for the king, the state, or myself, shall interrupt this easy sleep; therefore, brother, pity with me those men, who contrary to their intention, have made me happy. Rejoice in my happiness, rejoice in my innocence." Then kneeling down, he made this protestation: "I hope, gentlemen, you think that neither the fear of loss, or love of reputation, will suffer me to belie God and my own conscience at this time. I am now in the very door going out, and my next step must be from time to eternity, either of peace or pain. To clear myself before you all, I do here solemnly call God to witness, I am not guilty, so far as I can understand, of the great crime laid to my charge; nor have ever had the least inclination or intention to damnify or prejudice the king, the state, the laws, or the religion of this kingdom; but with my best endeavours to serve all, and to support all, so may God be merciful to my soul."

Then rising up, he said, "My Lord Primate of Ireland, and my Lords, and the rest of these noble gentlemen, it is a great comfort to me to have your Lordships by me this day, because I have been known to you a long time. I come here, by the good will and pleasure of God, to pay that last debt I owe to sin, which is death; and by the blessing of that God, I trust to rise again, through the merits of Jesus Christ, to righteousness and life eternal.

"I submit to the judgment that has passed on me, with a quiet and contented mind. I thank God I freely forgive all the world from my

very heart; there is not an angry thought arising in me towards any man living; and my conscience bears me witness, that in all my employments, since I had the honour to serve his Majesty, I never had any thing in the purpose of my heart, but what tended to the joint and individual prosperity of king and people, although it hath been my ill-fortune to be misunderstood.

"I am not the first who hath suffered in this kind; it is the common portion of us all while we are in this life, to err; righteous judgment we must wait for in another place; for here we are very subject to be misjudged one of another. There is one thing I desire to free myself of, and I am very confident I shall obtain your christian charity in the belief of it, I was so far from being against Parliaments, that I always thought the Parliaments of England, were the most happy constitutions that any kingdom or nation ever lived under, and the best means under God, to make both king and people happy.

"My Lord Primate, it is a great comfort to me, that his Majesty conceives me not meriting so severe and heavy a punishment. I do infinitely rejoice in this mercy of his, and I beseech God to return it into his own bosom, that he may find mercy when he stands most in need of it.

I wish this kingdom all the prosperity and happiness in the world. I did it living, and now dying it is my wish. I do most humbly recommend this to every man who hears me; but desire they would lay their hands upon their hearts, and seriously consider, whether the beginning of the happiness and reformation of a kingdom should be written in letters of blood; and may I never be so unhappy as that the least drop of my blood should rise up in judgment against any one of you; but I fear you are in a wrong way.

"My Lords, I have but one word more: I profess I die a true and obedient son to the 'Church of England,' wherein I was born, and in which I was bred; 'Peace and prosperity be ever to it.' It has been objected, but it is an objection scarce worth answering, that I have been inclined to popery; though I can truly say, that from the time I was one-and-twenty years of age, to this present, going now upon forty-nine, I never had it in my heart to doubt of the religion of the Church of England, nor ever had any man the boldness to suggest any such thing to me. And now, being reconciled by the merits of Jesus Christ my Saviour, into whose bosom I hope I shall shortly be gathered, to those happinesses which shall never have an end, I desire heartily the forgiveness of every man for any rash or unadvised words, or any thing done amiss. And so, my Lords and gentlemen, farewell! farewell all things of this world!

"I desire you will now join with me in prayer, and I trust in God we shall all meet, and live eternally in heaven, there to receive the accomplishment of all happiness, where every tear shall be wiped away from our eyes, and every sad thought from our hearts: and now God bless this kingdom, and Jesus have mercy on my soul."

Then he saluted the noblemen, and other persons of distinction upon the scaffold; after which he said again, "Gentlemen, I entreat you all to pray with me, and for me;" and his chaplain having laid the book of Common

Prayer before him, he kneeled down, and prayed out of it a quarter of an hour, and as long without book, concluding with the Lord's Prayer.

Then standing up, he said to Sir George Wentworth—

“Brother, we must part. Remember me to my sister, and to my wife, and carry my blessing to my son: charge him always to fear God, and continue an obedient son to the Church of England; warn him that he bear no private grudge, or revenge towards any man concerning me. And bid him never to meddle with church livings; for that will prove a moth and canker to him in his estate; I wish him to be a servant to his country, without aiming at high preferment.

Carry my blessing also to my daughters Anne and Arabella: charge them to serve and fear God, and he will bless them; not forgetting my little infant, which yet knows neither good nor evil.

While he was undressing, he said, I as cheerfully put off my clothes at this time, as ever I did when I went to bed; and putting on a white cap, he tucked up his hair under it; then having prayed again, and submitted to the block, his head was severed from his body at one blow.

THE MOST REVEREND FATHER IN GOD WILLIAM LAUD,

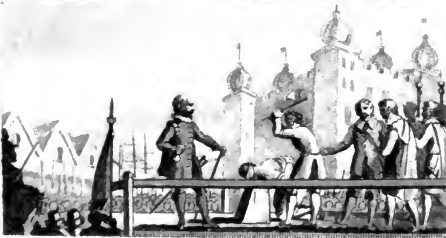
LORD ARCHBISHOP OF CANTERBURY, BEFORE THE
HOUSE OF LORDS, MARCH 12, 1643.

THE Commons having impeached his grace of high treason, and other high crimes and misdemeanors, at the bar of the House of Lords, on the 18th of December, 1640, desired he might be committed to safe custody; whereupon he was delivered to the Black-rod, till the Commons should proceed in their impeachment; and on Friday the 26th of February following, fourteen general articles were sent up to the Lords against him.

1. That he had traitorously endeavoured to subvert the laws, and introduce arbitrary government.
2. That he had denied the authority of parliaments, establishing an absolute power, not only in the king, but in himself and other bishops, above and against the law.
3. That by threats and promises to the judges, he had perverted the course of justice, and deprived the king's subjects of their rights.
4. That in his own courts he had sold justice, and taken bribes.
5. That he had caused divers canons to be made, contrary to the king's prerogative, and the laws; established an unlawful authority



ARCHBISHOP LAUD.



Engraved by Steele & Pridley 517 Strand.



in himself, and successors; and endeavoured to confirm his exorbitant power by a wicked oath.

6. That he had assumed a papal and tyrannical power.

7. That he endeavoured to subvert the true religion, and introduce popish superstition.

8. That he abused the trust his Majesty reposed in him, procuring the nomination of persons to ecclesiastical preferments, which belonged to others, and preferring persons that were popishly affected.

9. That his own chaplains, to whom he committed the licensing of books, were popishly affected, which had occasioned the publishing of divers superstitious books.

10. That he endeavoured to reconcile the churches of England and Rome, and countenanced the establishing a popish hierarchy in the kingdom.

11. That he had caused several orthodox ministers to be silenced, and deprived, and many loyal subjects to forsake the kingdom.

12. That he had abrogated the privileges granted the French and Dutch churches in this kingdom, endeavouring to cause discord between the Church of England and other reformed churches.

13. That he had laboured to bring divers popish innovations into the kingdom of Scotland, in order to create a war between the kingdoms of England and Scotland, and advised his Majesty to subdue the Scots, forcing the English clergy to contribute to that war: that he had censured the pacification as dishonourable, and so incensed his Majesty, that he entered into an offensive war with the Scots.

14. That, to prevent his being questioned for these traitorous proceedings, he endeavoured to subvert the rights of parliament, and to cause divisions between his Majesty and his people; for which they impeached him of high treason.

Two or three days after sending up these articles, his grace was committed to the tower, where he remained in close imprisonment from the 29th of February, 1640-1, to the 24th of October, 1643, when he received ten additional articles, together with an order from the Lords, to put in his answer in writing before the 30th of the same month.

1. The first additional article charges, that in the 3d and 4th year of the king, he caused the parliament to be dissolved, and aspersed the members, affirming they were factious Puritans, and commended the Papists.

2. That for ten years past he had endeavoured to advance the power of the council-table, the canons of the church, and the king's prerogative above the laws.

3. That to advance the ecclesiastical power, he had hindered the granting writs of prohibition to the ecclesiastical courts.

4. That a judgment being given against one Burley, a parson, for non-residency, he had stayed execution by applying to the judges, and said, "He would never suffer a judgment to pass against a clergyman, by nihil dicit."

5. That he had caused Sir John Corbet, a justice of peace, to be imprisoned, for causing the petition of right to be read at the sessions of the peace; and, during his imprisonment, granted away part of the glebe lands of Alderly, belonging to the said Sir John; and prevented the execution of a judgment, which Sir John had obtained, and procured him to be committed by the council-table, till he submitted to their order.

6. That divers sums being given for purchasing impropriations, he had caused the same to be overthrown in the court of Exchequer.

7. That he had harboured and relieved Popish priests, who had traduced the 39 articles.

8. That he had said, a blow must be given to the church, before it could be brought to conformity.

9. That in May, 1640, he caused the convocation to be held, after the dissolution of the parliament, where canons were made, contrary to law and the privilege of parliament, and a dangerous and illegal oath formed, approving the doctrine and discipline of the established church, and promising not to consent to any alteration in the government of the church by archbishops, bishops, deans, archdeacons, &c. Which oath he had taken himself, and caused other ministers to take; and imprisoned the bishop of Gloucester, for refusing to subscribe the said canons, and take the oath, till he submitted.

10. That a resolution being taken at the council-table for assisting the king by extraordinary means, if the parliament should prove peevish, the archbishop wickedly advised his Majesty to dissolve the parliament in 1640, and it was thereupon dissolved; and soon after he told his Majesty, "that he was now absolved from all rules of government, and at liberty to use extraordinary ways for a supply."

Upon receipt of these articles, and the abovesaid order from the Lords, his grace petitioned he might be allowed something out of his estate, which they had seized and sequestered, to bear the charges of his trial; that his papers might be restored him, that he might be enabled to prepare for his defence; and that he might have counsel, a solicitor, and some servants to attend his business; and upon a second petition, Mr. Dell, his grace's secretary, was assigned him for a solicitor; Mr. Hearne, Mr. Chute, Mr. Hales, and Mr. Gerrard, were assigned him for counsel; but they would not allow him a penny out of his estate, Glynn telling them he might proceed in *forma pauperis*: however, they made him pay even for the copies of his own papers.

His grace petitioned the Lords, also, that they would distinguish the treason from the misdemeanors in the articles; for the crimes were so interwoven and connected in the conclusion, that they might all refer to treason,

and consequently his counsel would not be permitted to give him any advice in matters of fact; but neither the Lords nor Commons would make any distinction, though application was made to them respectively: however, the Lords were so gracious as to allow him till the 13th of November, to give in his answer, when his grace appeared at their Lordship's bar, and put in his answer in writing to the last article, viz. "That he was not guilty in such manner and form as the said articles of impeachment charged."

But his grace appearing at the Lord's bar again, the 10th of January, 1643-4, it was observed, there was no answer put in to the first articles, or any issue joined; and thereupon his grace was ordered to put in his answer to the original articles the 22d of January.

Then his grace petitioned that his answer to the last articles might be taken off the file, and that they would distinguish between treason and misdemeanors, that he might give a particular answer to both; and that they would give his counsel leave to speak to the generality and uncertainty of the articles which they declared no man living could prepare an answer to, as the case stood; but his grace was not indulged in any of these particulars, and therefore found himself under a necessity of putting in the same general answer he had done before (viz.) "That he was not guilty:" only as to the 13th original article, and to the rest of them that related to Scotland, he pleaded the late act of indemnity.

His grace, having received an order to prepare for his trial the 12th of March, 1643-4, was brought to the bar of the House of Lords that day, where he found a committee of the Commons, consisting of serjeant Wilde, Mr. Brown, Mr. Maynard, Mr. Nicholas, and Mr. Hill, appointed to manage the evidence against him; and Prynne acted as their solicitor, having Grice and Beck to assist him. His grace also observes, that Prynne, during the trial, kept an office, where he instructed and tampered with the witnesses.

Mr. Serjeant Wilde opened the charge, and said, that if the memory of all the pernicious practices, which had been from time to time attempted against our religion and laws were lost, here they would find them revived indeed. That had the faults of this man been no other than those of common frailty and inadvertency, they would gladly have thrown a veil over them; but, being wilful, de-

structive, and comprehensive of all evils, the sin would lie on their own heads, if they did not call for justice. That here was treason in the highest pitch and altitude; even the betraying the whole realm, and the subversion of the very foundations. That these crimes, of themselves so heinous, were aggravated by the quality of the offender, who had been advanced to the most eminent stations in church and state, and was endowed with many great gifts of nature: but all these advantages he had perverted to the destruction of the public.

That churchmen in all ages, were the archest seedsmen of mischief, and the principal actors in all the great distractions that had happened; and as they meddled with temporal things, heterogeneal to their calling, God was pleased to smite with blindness, and infatuate their councils, of which this prelate was an instance; who, employing his time in state affairs, became "the author of all the illegal and tyrannical proceedings and innovations in religion and government, and indeed, of all the concussions and distractions, that had happened in church and state."

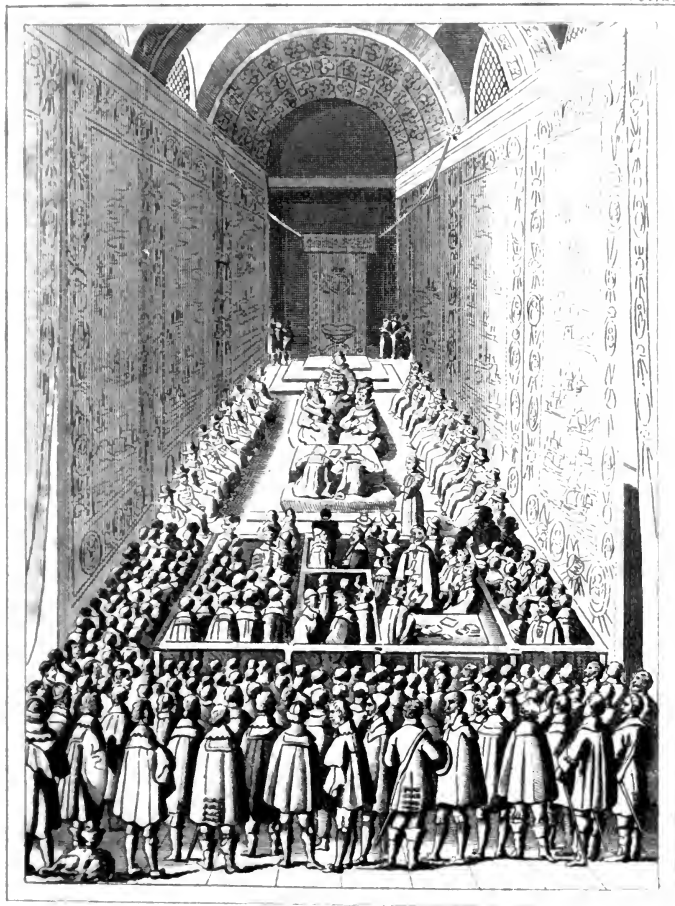
And when by the magnanimity of former princes, and the wisdom of their ancestors, they had shaken off the antichristian yoke; and when they had seen such bloody massacres, plots, and prosecutions at home and abroad, in order to introduce it again; that this man should go about to reduce them to those rotten principles of error and darkness again, it could not be expected but the people should be ready to stone him. He concluded, that though Naaman was a great man, yet he was a leper: and this man's leprosy so infected all, that there remained no cure, but the sword of justice; which they doubted not but their Lordships would apply, that the commonwealth might live again and flourish."

His grace having obtained leave to speak in his defence, said;—

That it was a great affliction to him to appear at this bar as a criminal, though he should be acquitted; but he was not very solicitous about his sentence, for he thanked God he had spent his time so, that he was neither ashamed to live, nor afraid to die; nor could the world be more weary of him, than he was of it: but if none of these things whereof these men accused him, merited death by law, though he might not in this case appeal to Cæsar, yet he might, and did, to their Lordships' justice; not doubting but God would protect his innocence.

The charge against him, he observed, was divided into two principal heads, (*viz.*) his endeavouring to subvert the laws, and, the religion by those laws established.

As to the laws, he said he had been a strict observer of them all his life; and since he had any share in the administration, no man had been more guided by them than himself, as the learned counsel present, who had attended the council-table, could testify; nay, he had ever held, that human laws bind the conscience; and this doctrine he constantly preached. That he looked upon an endeavour to subvert the law a greater crime than to break any particular law, and this they might observe was his judgment, by the book he wrote against Fisher; out of which he read a passage to that purpose.



TRIAL OF ARCHBISHOP LAUD.



As to religion, he was born and bred up in the Church of England, and by the blessing of God, and the favour of his prince, grown up to the years that were then upon him, and to that place of preferment which he did yet bear; and in this church, by the grace of God he was resolved to die: that he had ever continued steady to his profession and principles, without any regard to worldly views; though if his conscience would have given him leave to shift his tenets as time and occasion served, he might have easily slid through all the difficulties of this sort that had pressed him: that he had always endeavoured, that the public worship of God, which was too much slighted, might be preserved, and that with as much decency and uniformity as might be; for he was still of opinion, that unity could not long continue in the church, without uniformity. He saw that the neglect of public worship, and the places dedicated to that service, had cast a damp upon the true and inward worship of God; which, while we live in the body, needs external helps, and all little enough to keep it in any vigour: but, though he had endeavoured to redress things according to the law and canons, he did not know he had ever done it, but with the consent of the people.

That he was innocent, as well in thought as practice, of any design to alter religion and introduce popery; and, if nothing but truth were spoken, he challenged whatever was between heaven and hell to say their worst against him, in point of religion, in which he ever hated dissimulation: and though he might have procured his safety by it, he thought it no way became a Christian Bishop to halt with God.

Lastly, he said, it was strange if he designed to introduce Popery, he should have laboured so much to reduce those who were going, or had gone over to it; and instanced in two-and-twenty persons, most of them men of condition, whom he had brought over to, or confirmed in the Protestant religion; and challenged any clergyman to give a better proof of his zeal to the established church; not doubting, but he should be able to answer, whatever should be more particularly objected against him."

The Archbishop being brought to the bar again on the 13th of March, the managers proceeded to make good the first and second original articles; and the second additional article relating to the subversion of the laws, introducing arbitrary power, questioning the authority of parliaments, advancing the power of the council-table, &c.

To prove this part of the charge, Mr. Maynard read the following words out of his grace's diary, (viz.) the 5th of December, 1639.

"The king declared his resolution for a parliament, in case of the Scottish rebellion; the first movers of it were my Lord deputy of Ireland, the Lord Marquis of Hamilton, and myself; and a resolution voted at the board, to assist the king in extraordinary ways, if the parliament should prove peevish and refuse." From whence it was urged, he had bestowed the epithet of peevish on the parlia-

ment; and that the vote to assist the king by extraordinary ways, proceeded from his advice. The evidence of Sir Henry Vane, the elder, also was insisted on; who deposed, that his grace said to the king, after the rising of the last parliament, "Now he might use his power."

Alderman Atkins deposed, that when he was brought before the council about ship money, none was so violent against him as his grace.

It was objected to him, that he had asserted the king's proclamations were of the same force as a statute; and, speaking of the king's power, he had said, "Whosoever falls upon it shall be broken; but upon whomsoever it falls, it shall grind him to powder."

And that, speaking of an act of parliament, he said, "That he saw nothing would down with them but acts of parliament: no regard at all to the canons of the church; and that he would rescind all acts that were against the canons; and hoped shortly to see the canons and the king's prerogative of equal force with an act of parliament."

He was also charged with giving the king subsidies in convocation, without consent of parliament; and with some other matters of less moment, to support the three articles above-mentioned.

He was charged also with forcing people to lend money for the repairing of St. Paul's, and with the imprisonment of one Vassal by the council-board; who conceived his grace to be the author of it. The imprisonment of Sir John Corbet by the council-board, was also imputed to him. His projecting to give the ministers of London some assistance as to their tithes, was urged as another offence, and his diary produced as an evidence of it.

The imprisoning Burton, Prynne, and Bastwick, also was laid to his charge; and particularly the censuring Prynne for libelling: and lastly, he was charged with being instrumental in removing two brew-houses, that were an alledged nuisance to the palace of St. James's.

His grace being brought before the Lords again on Friday the 22d of March, it was represented by the committee, that Mr Newcommen of Colchester, refused to administer the sacrament any where but at the rails; that Burroughs, the witness, indicting him for it, his bill was thrown out, and he was afterwards called before the high-commission court for it, by a warrant from his grace; that the mayor would not obey a *habeas corpus*, but said he would obey his grace's warrant, before the king's writ; and that a letter was sent to Judge Crawley, and shewed to Judge Hutton.

One Ask deposed, that his grace protected some players, that were found at a tavern at an unseasonable time of night; that there was a plot to make the deponent an instrument, about receiving the sacrament at the rails; that letters missive were sent him by the high commission, and that applying to his grace, he told the deponent, if he was so strict against churchmen, he must expect to be dealt with

as strictly by the high commission ; and that the deponent went to Holland, to avoid the oath *ex officio*.

Grafton, a Brownist, also deposed, that he was imprisoned twelve years ago, and fined 50l. and believed he might have been set at liberty sooner, if it had not been for the archbishop.

Thus ended the fifth day's hearing, and his grace being brought to the bar again, on Thursday the 28th of March, was charged with the censure, deprivation, and imprisonment of Mr. Huntley, a clergyman, and telling his attorney he deserved to be laid by the heels.

That his grace threatened and imprisoned those who brought prohibitions ; and when Prynne brought a prohibition, he said that he would lay him by the heels that brought the next ; that he wondered who durst grant prohibitions, the high commission court being above all.

The next charge was that of bribery, and his obliging Sir Edward Gresham to give half the penalty of a bond of 200l. which the court assigned him, to the repair of St. Paul's. That the Chester men being fined 1000l. for feasting of Prynne, his grace, for a bribe of two hogsheads of sack, procured the fine to be lessened to 200l. And his secretary received 150l. to get his hand to a petition to the lord keeper.

His grace being brought to the bar again the 16th of April, was charged with making canons in convocation, after the parliament was dissolved, &c. and to prove he had assumed papal power, some letters from the University of Oxford were produced, wherein his grace is styled, *sanctitas tua*, and *spiritu sancto effusissime plenius*, *summus pontifex*, &c. that he had said, "The clergy were now debased ; that heretofore it was otherwise, and he hoped to see it so again." And lastly, that he brought Sir Richard Samuel into the high commission, for doing his office of justice of the peace upon some clergymen ; and that one of the articles against him, was his being an enemy to the clergy.

This day's hearing being over, the Archbishop was ordered to attend again, the 22d of April, which he did, but was sent back, and nothing done any more than on the 25th and 30th of April, when he attended likewise, at the expense of seven or eight pounds a day.

On Saturday, May the 4th, his grace was brought to the bar again, when Mr. Nicholas, the manager, again reproached him with the high titles he had suffered the

University of Oxford, and others, to confer upon him, and then proceeded to enforce that part of the charge, in relation to his endeavouring to exempt the clergy from the civil power; for proof whereof they cited part of a speech of his grace's in the star-chamber, wherein he advises them to take care not to cause the laws of the church, and the kingdom to clash; another proof was a suggestion that he caused some justices of the peace to be summoned before the high-commission, for keeping their sessions at Tewkesbury in a part of the church; and as a further evidence of this charge, they said, when the mayor of Oxford had set the watch, they were disturbed by the proctors, and a constable imprisoned, and that his grace refused to refer the matter; that he had also formed a project to abolish all impropriations; that he had introduced several new and exorbitant clauses into the high commission: and lastly, that he had illegally extorted a patent from the king, for the fines in the high commission, towards repairing St. Paul's.

He was ordered to appear again on the 9th, and then the 13th of May, both which days he attended, and stood exposed to the scorn and laughter of the mob, and was at length dismissed unheard.

His grace being brought to the bar again, the 16th of May, was charged with presenting a blind man to a living of Sir Arthur Haslerigs, which was an impropriation, and a lay-fee, and with saying, if he lived, no man should stand upon his lay fee; that he had illegally deprived one Fautrye for simony, the high commission having no power over freeholds; that he had altered the statutes of the university of Oxford, taking upon himself to be an universal law-giver; that he had illegally made new statutes for cathedral churches; and ordered that nothing should be done on those statutes, without advising with him. His injunctions for the visitation of Winton also were complained of, requiring the pulling down several houses that were upon consecrated ground; and his intention of visiting the two Universities: then he was charged with the censure of Bastwick, for a book he wrote against Bishops; and with saying, "That Christian Bishops were before Christian Kings."

His grace attending again the 20th of May, the committee proceeded on the 6th and 7th original articles;

which charge, that his grace “had traitorously endeavoured to alter, and subvert God’s true religion;” which they endeavoured to prove by some alterations he had made in his chapel at Lambeth; as his turning the table north and south, repairing the windows with coloured glass, and imitating the pictures in the mass book; that he used bowings at his coming into the chapel, and going up to the altar; and the organs, candlesticks, the history-piece at the back of the altar, and the wearing copes at communions and consecrations, were brought in, to support the charge. Another instance produced, to shew his intentions of altering religion, was, his consecrating the communion plate. A Bible that was found in his study, with the five wounds of our Saviour wrought on the cover; a missal, and other books relating to the popish liturgy, and his own prayer-book, where the times of prayer were appointed at canonical hours, were held to be sufficient evidence of his design to introduce popery. The pictures of the fathers in the gallery, and a dove over one of them, (which they said stood for the Holy Ghost) and an *ecce homo*, or Pilate bringing forth Christ, were all looked upon as proofs of his popery.

His grace answered, as to the alterations in his chapel, that it lay before in a very indecent manner; that he had set the table north and south, according to Queen Elizabeth’s injunctions, and they were guilty of innovations who set it otherwise; that the windows were miserably patched; and he did, by the assistance of his secretary, discover the story by what remained, and got them repaired, but not by the missal, as was suggested; they contained the whole story from the creation, to the day of judgment: and he did not believe this was in the missal: and even Calvin was of the opinion, that pictures and images might be of use to instruct the people; and that both in King Edward’s and Queen Elizabeth’s reign, such pictures were allowed; that bowings also were usual in Queen Elizabeth’s time, and if he must bow to men, in either house of parliament, must he not bow and worship God in his own house, though there were neither altar nor communion table in it? That organs, &c. were in the royal chapels in the last reigns; and that in all ages of the church, the consecrating the sacred vessels, as well as churches, had been used. And if there can be no dedication of these things to gods, no separation of them from common uses, then neither the things or place were holy; and there would be no such thing as sacrilege, no difference between a church and a common house, between holy tables and ordinary tables; that St. Paul’s question puts the matter home, if they would consider it, “Thou which abhorrest idols, dost thou commit sacrilege?” Thou who abhorrest idols to the very defacing of church windows, dost thou of all others commit sacrilege, which the very worshippers of idols punish? As to

his prayer of dedication, this was not taken from the missal, but from one used by Bishop Andrews. The Bible mentioned, was a present from a protestant lady, and never seen out of his study, by any who might be offended at it : that he had also a missal and other popish books, but more of the Greek liturgies than the Roman ; and he did not know how he should answer their errors, if he might not have them. That he had also the Koran in divers copies, and they might by the same rule, conclude him a Mahometan. And as to their exposing his private prayers, he thought this was not to be paralleled in any heathen nation. If he had enjoined himself, his prayers, at canonical hours, he hoped there was no sin in it ; and if his prayer at the consecration of Hammersmith chapel might be read, no offence could be taken at it. If he had been so addicted to popery as they suggested, it was a wonder the diligent Mr. Prynne had found no prayers to the blessed Virgin, and the Saints, among his papers.

That as to the dove, representing the Holy Ghost, this was more than the witness could depose ; and as to that and the *ecce homo* he answered out of Calvin, that it was lawful to make a picture of any thing that might be seen. And lastly, these pictures had remained in the gallery, ever since the reign of Queen Mary ; nor had any of his predecessors, during the time of Queen Elizabeth, or King James, thought fit to remove them. And as to the bowings he was reproached with, he was sorry any reverence in God's house could be thought too much ; but it was the devil's cunning, when he saw superstition thrown out of the church, to bring in irreverence and profaneness. As to the crucifix in the altar-piece, there had been one in the old hangings for thirty years before, which had never given offence.

After this hearing was ended, his grace was ordered to attend another day, when nothing was done ; but he was so fortunate, at last, to get an order to the committee of sequestrations, to receive 200*l*. out of his own estate ; which was all they suffered him to take out of the profits, in the two years it was under sequestration.

At another hearing, on May the 27th, they renewed their charge against the windows in Lambeth chapel ; particularly they observed, that there was a picture of God the Father in them ; and Prynne deposed, that his grace had a book of pictures, containing the history of our Saviour. They also urged, that the ceremonies used at the coronation were superstitious ; and that he had taken upon him to alter the coronation oath. That his grace suffered the picture of the blessed Virgin, to be painted on the church door of St. Mary's in Oxford ; and that copes, bowings, pictures, and candlesticks, were used at Oxford, and in several parish churches, and the communion-table placed altar-wise ; which they held to be sufficient evidence of his introducing popery.

His grace being brought to the bar again on the 6th of

June, great part of the charge of the day before was repeated, and they accused him of promoting several severe sentences in the high commission ; and particularly one against Mr. Workman, for preaching against images ; and another against Mr. Sherfield, for defacing a church window at Salisbury ; wherein was the picture of God the Father ; and that his chaplain, Dr. Bragge, refused to license Dr. Featly's sermons, till a passage against images was struck out.

At the conclusion of this hearing, his grace complained of a paper called, " The Diurnal," wherein he was scandalously abused ; and observed, that it had been affirmed in this, and other papers, that the whole charge had been proved against him, which their Lordships knew to be false ; but his complaints were very little regarded.

His grace being brought to the bar again, the 11th of June, the managers proceeded to give evidence of his attempts to subvert the established religion, of which his consecration of two churches, viz. St. Katherine's Cree church, and St. Giles's in the Fields, were said to be instances. The witnesses deposed, tha the came in a pompous manner to perform the ceremony, and at his approach to the church door, caused the following passage out of the Psalms to be read, viz. " Lift up your heads O ye gates, and be ye lift ye everlasting doors, and the king of glory shall come in." That he kneeled down at his coming in, and used many bowings and cringes, threw dust into the air, and used several curses in imitation of the pontifical, taking also one of his prayers from thence ; and at last pronounced the place holy. He was charged also with the consecration of chapels, and giving the name of St. John to his own chapel ; and a paper was read, said to be a list of his chapel furniture, wherein wafers were mentioned instead of consecrated bread.

The publishing the book of Sports was also urged as a piece of popery, and his punishing several of his clergy for not reading it, as another offence. Sir Henry Mildmay, and Anthony Mildmay deposed, that his grace was hated by one faction at Rome, and loved by another ; and, though he was but an obscure man, they observed, within these fifteen years, there was a strong opinion of a reconciliation between the churches of Rome and England since his advancement.

At another hearing of the 17th of June, he was accused as being the occasion of Dampont's leaving his benefice, and retiring to Holland; and with saying, (when he heard he was in New England) "That his arm should reach him there."

That one Nathaniel Wickens had been imprisoned nine weeks, only for being a servant to Mr. Prynne; that upon his refusing the oath *ex officio*, his grace said, the charge should be taken *pro confesso*; and that his friends were refused a sight of the articles against him.

His grace was also charged with stopping books at the press, and expunging passages out of them; and particularly the English Bible with Geneva notes: and that he had used his power, to suppress some books in Holland; that he suppressed an Almanac, that left out the apostles and saints, and inserted the martyrs of Queen Mary's reign in their stead.

His grace being brought from the Tower to Westminster every day to his trial, related, that at his landing, he was generally saluted with reproachful language, and particularly by one quarter-man, who this day cried out, "What do the Lords mean to be troubled so often with this base fellow? They would do well to hang him out of the way." Nor was Nicholas the manager less scurrilous, when his grace appeared at the bar, giving him worse language, than a man of any education would have given to his slave.

On the 27th of June his grace was charged with the following passages out of a speech he made in the star-chamber; from whence the managers said, it was evident he held transubstantiation, viz. "The altar is the greatest place of God's residence on earth, greater than the pulpit; for there it is, *hoc est corpus meum*, this is my body, but in the other it is at most, *hoc est verbum meum*, this is my word; and a greater reverence is due to the body, than to the word of God."

He was also charged again, with licensing Popish and Arminian books, and suffering his chaplains to preach and print Arminian doctrines.

His grace being brought to the bar again on the 17th of June, was charged with making a division between the Church of England and the foreign reformed churches, by depriving the foreign churches here, of their privi-

leges; and that passage in his book against Fisher, viz. "No bishop, no church," was urged as a further proof of his intention: a passage in Bishop Montagu's book also was cited against his grace, viz. "that none but a bishop could ordain, unless in case of necessity." And a third thing insisted on was, his advising Bishop Hall, not to affirm positively, that the pope was antichrist. Another offence was, his having asserted, that church government by bishops was not alterable by human laws.

On the 24th of July, the managers went upon the same articles they did at the preceding hearing, and repeated a great deal of the same matter; they charged him also with saying, "that the Church of Rome and ours, were all one, that we did not differ in fundamentals, but circumstances; that Rome was a true church," &c. That he favoured papists and released them out of prison, entertained and harboured Sir Toby Matthew, and several popish priests, refused to commit Fisher the Jesuit, and was very intimate with secretary Windebank, who used to dismiss popish priests, when the messengers had taken them; that the priests had the best lodgings in Newgate, and the liberty of walking the streets; that he would not suffer popish books that were taken to be destroyed, but frequently returned them to the owners; and that he had said in the preface to his book against Fisher, "that to his remembrance, he had not given him or his, any coarse language."

His Grace being brought to the bar again the 29th of July, the managers went upon the 14th original article, (viz.) "that to prevent his being questioned for these and other his traitorous proceedings, he had endeavoured to subvert the rights of parliament, and create a division between his majesty and his people, and ruin his kingdoms, for which they impeached him of high-treason.

The evidence to support this charge was, that he had assisted the Duke of Buckingham in making two speeches, when he was impeached by the House of Commons, and that he had drawn up two of the King's speeches to the parliament, in which were some four passages, and Sir Sackville Crowe deposed, that his grace shewed him a paper, in which were several aspersions on the parliament, and that the paper was subscribed W. Laud. A passage out of his diary also was read, to shew his enmity to parliaments (viz.) June 15th, 1626. *Post multas agitatione privata malitiain Ducem Buckinghamiæ superavit & suffocavit omnia publica negotia; nihil actum est, sed*

parliamentam solutum: wherein it was observed, he charged the parliament with malice. Another evidence of his aversion to parliaments, was said to be, his assisting in drawing up the proclamation for suppressing the (rebellious) remonstrance; a paper was also produced, called his grace's "reasons against parliaments," said to be of his own hand-writing, and the following words were read out of his diary against him, (*viz.*) "the parliament which was dissolved 10th March, 1628, sought my ruin," as also some notes on Sir Benjamin Rudyard's speech in parliament.

Another passage in his diary was read, purely to expose him, (*xiz.*) 27th October, 1640. "Going into my upper study to send away some manuscripts to Oxford, I found my picture fallen down upon the face, and lying on the floor, I am almost every day threatened with ruin. God grant this be no omen of it." Another passage half burnt out, which the managers supplied out of their own invention, was read; wherein they make him say, that "Magna Charta had an obscure birth, and was fostered by an ill nurse." And concluded with part of a dream, the Earl of Pembroke deposed, that his Grace related to him, (*viz.*) "that he should come to greater preferment in the church, and power in the state, than any man of his birth and calling had done before, but in the end he should be hanged.

Whereupon, Nicholas the manager, said, the first part of his dream had proved true, to the great hurt both of church and state, and he hoped their lordships would now make good the latter, and hang him. His Grace appearing at the bar the 2nd of September, saw that every lord had a small folio in his hand, which he found to be his diary in print, with Prynne's remarks upon it: Before he entered upon his recapitulation, he observed, that his trial began the 12th of March 1643-4, and ended the 29th of July following; during which time their Lordships had heard him twenty days, and twelve days they had sent him back without hearing; and the intervals had been taken up, in finding and managing the evidence against him.

In his defence, he desired their Lordships would consider his function, his great age, his long imprisonment, the loss of his estate, and the resignation with which he had borne these afflictions; that they would also observe the generality and uncertainty of every article, which made his defence extremely difficult; that the use of his study, his books and papers had been taken from him, and that twenty-three parcels of papers prepared for his defence, were taken from him in the tower, by Mr. Prynne, but three were returned again: That his very pockets were searched, and even his diary and prayer-book taken from him; and made use of, not to prove, but to frame a charge against him. But thus far these hardships had been an advantage to him; that their lordships had seen the passages of his life; and by his prayer-book, the greatest secrets between God and his soul; and though these had been thoroughly searched, he

thanked God, they could find no disloyalty in the one, or popery in the other. That all the council-books, those of the Star-chamber, High Commission, Signet office, Registers of Oxford and Cambridge, had all been diligently searched for matter against him; yet he was suffered to have no assistance from any of them, towards making his defence.

That even his actions, that tended to the public good, and the honour of the church and kingdom, and in which he had been at great pains and expences, such as the repairing St. Paul's, and settling the statutes of the University of Oxford, had been objected to him as crimes; that most of the witnesses produced against him, had been exasperated sectaries or separatists, whom the laws had been put in execution against; but by the civil law, no schismatick was to be admitted a witness against his Bishop. That these men were made witnesses in their own causes; and the judgments of the Star-chamber, High-commission and Council-table, were here on a sudden overthrown, by the testimonies of the parties themselves; nor was it possible for one, who had sitten as judge in so many several causes, to give an account of the respective motives that directed his conscience in every one of them, after so many years elapsed. That what he had done, was, to the best of his understanding conducive to the peace and welfare of the kingdom, and the maintenance of the doctrines and discipline of the church established by law: and observed that, while he was in the administration, God had been pleased to bless this state with such peace and plenty, that the neighbouring nations looked on us with admiration. What the overthrow of this constitution might produce, God only knew, but he prayed God to avert it.

He observed also, that every hasty expression to which he had been urged by any provocation, had been insisted on to aggravate the charge; but he hoped their lordships would impute them to human frailty, that he was in many instances criminally charged with the actions of other men, and even with the acts of the Star Chamber, Council Table, High Commission, and Convocation, where he had but a single vote, and in some of these courts, there sat with him men of the greatest honour, learning and experience; and it was hard, that the same facts should be construed treason in him, which were not censured as misdemeanors in any of the rest.—That there had been no proof of his soliciting any man to concur with him, nor could his vote influence others, because it was always given last.

That as to what had been so strenuously urged against him, that he ascribed that power to the church which belonged to the parliament; he conceived, the parliament could not as the law stood, determine the truth of doctrines, without the assent of the church in convocation; that the first clause in Magna Charta, establishes the church in all her rights, of which, "the power of determining in matters of doctrine, and discipline was one at that time; nor had this right of the clergy been limited by any law since, but by the clause of 1 Eliz. cap. 1. which empowers the parliament with the assent of the convocation, to judge of heresy, &c., and still he held, that the judging of the truth or falsehood of any doctrine, was in the church, though the power of punishing offenders was in the parliament, with the assent of the clergy.

That it was true the king and parliament might, by their absolute power, change christianity into mahometanism; and those who could not obey, must either fly, or endure the penalties inflicted for their disobedience; but both king and parliament, must answer for the abuse of their power to God. And though it had been objected, that if the parliament would not have meddled with religion without the convocation, there had been no reformation; yet the articles of religion were settled by a synod of the clergy, at the reformation, and confirmed by parliament, with the assent of the clergy in convocation.

And whereas, his accusers had not been able to charge any one of his actions as treasonable, yet they had notwithstanding, urged that the result of them altogether amounted to treason. He begged leave to observe, that the result must be of the same nature and species with the particulars from which it arises. And as this rule held in nature and morality, so it did in law, for where there were never so many crimes heaped together, yet there was no law that made the result of different crimes, treason, where none of the particulars were treason by law. That the statute of the 25 Edw. III. had determined what should be deemed treason, and what not; and unless this result was something within that statute, it could not be treason.

His Grace afterwards moved, that his council might be heard to the following points, (viz.) whether all, or any of the articles amounted to high treason; secondly, whether the charge contained in them, was made with that certainty the law required. But these points being communicated to the Commons, they would not suffer the counsel to argue any more than the first, with whom their Lordships (now in a manner subject to the Commons) agreed; and Mr. Hern was decided on, to deliver his own, and the arguments of the rest of his Grace's counsel, at the bar of the house, the 11th of October. Wherein besides what his Grace had already insisted on, they observe, that as nothing is treason by the law of England, but what is made so by the 25th Edw. III., so that act ought not to be construed by equity or inference: 1. Because it is a declarative law, and no declaration ought to be surcharged with another declaration. 2. This law was provided for a security in life, liberty, and estate; but to admit constructions and inferences upon it, must by consequence destroy the intent and force of the provision. 3. It has been held in Parliament and judicial debates, that this act shall be literally construed, and not stretched to inferences.

They urged also several things which his Grace had

insisted on before ; and in the whole argument confined themselves to the nature and degree of the crimes exhibited in the articles, without touching on matter of fact, or enquiring whether the particulars of the charge were proved or not.

The hearing being over, a petition was handed about London, for bringing delinquents to justice, and several preachers did all that lay in their power to inflame the people ; telling them that nothing could conduce more to the glory of God, than the execution of delinquents, and by these means, a multitude of hands were procured to the petition, which was delivered to the Commons, the 28th of October, none being named in it but the Archbishop, and the Bishop of Ely.

The Commons finding that the Lords would not convict the Archbishop of high treason, resolved to punish him by a bill of attainder, which they were so gracious as to acquaint the Archbishop with, and ordered him to be brought to their bar on the 1st of November, where Mr. Brown, one of their managers, gave them a summary of the proceedings, before the House of Lords, and his Grace was permitted to answer it, the 11th of the same month.

On the 14th of November, his Grace was brought to the bar of the House of Commons again, to hear Mr. Brown's reply, but was not suffered to speak afterwards, and within two days they passed the Ordinance, or Bill of Attainder, and sent it up to the Lords, who were still of opinion that the facts his Grace was charged with, did not amount to high treason. But the Commons sending them a message "that they would do well to pass the Ordinance, or the multitude would come down and force them to it ; and giving them to understand also, that they would be soon voted useless, if they did not comply ; a remnant of the Lords, not above fourteen at most, present in the House,* passed the Ordinance for the Archbishop's attainder, on the 4th of January, *and on the 6th, an order of both Houses was made for his execution on the 10th of the same month.*

* Some historians relate there were only seven lords present at the passing the bill of attainder, and give us the names of six of them, viz. The Earls of Kent, Pembroke, Salisbury, and Bolingbroke, the Lord North, and the Lord Grey, of Werk.

The Archbishop afterwards acquainted the Houses; that he had his Majesty's pardon, but this would not avail him. First, because it was granted before conviction, they said; and secondly, that if it had been subsequent, yet in a case of treason against the kingdom, (as they termed it) it could be of no force. However, they remitted all the sentence, but the beheading.

Being brought to the scaffold on Tower-hill, on the 10th of January, he mounted it with an air of great resolution and cheerfulness, beginning his speech with the following text of scripture.

"Let us run with patience the race that is set before us, looking unto Jesus, &c." And among other things he said, "that he was well assured, God was able to deliver him from this violence, as he did the three children from the furnace; and that by our Saviour's assistance, his resolution was the same with theirs. They refused to worship the image the king had set up: neither would he idolize the imaginations of the people, nor forsake the temple and truth of God, to follow the bleating of Jeroboam's calves. As for the people, he observed, they were miserably misled; the blind led the blind; and if they went on, they would both certainly fall into the ditch. Then he observed, that he was not only the first archbishop, but the first man, that ever died by an ordinance of parliament, and hoped his cause would appear in heaven with a different complexion from what was put upon it here. That his case, as foul as it was represented, looked something like that of St. Paul's, who was accused as a great criminal against the law and the temple; and St. Stephen's, who was arraigned for breaking the ordinances that Moses had delivered: that is, for endeavouring the subversion of the laws and religion of his country."

Then he proceeded to clear the king of being popishly affected, a calumny which he said he knew him to be as free from, as any man living; for he held him to be as sound a protestant, (according to the religion by law established) as any man in the kingdom; and that he would venture his life as far and as freely for it. He complained of the riotous tumults of the people, and their clamouring for justice at the parliament house. This was the way, he said, to draw the guilt of blood upon their heads; and these mutinous disorders, he observed, were not restrained by the magistracy. He lamented the calamitous condition of the Church of England. She was become, he said, like an oak, cleft in pieces with wedges made of her own body, while iniquity and profaneness triumphed under the pretence of godliness; that the substance of religion was lost, and that church which stood firm against the attacks of the Jesuits, was terribly battered by her own party.

As to his religion, he declared himself of the communion of the Church of England, established by law; and in this persuasion, he said he had always lived, notwithstanding the unreasonable clamours raised against him. He declared himself also a friend to the constitution, and particularly to parliaments; but the best things

he observed, were often corrupted and became the worst. Thus the parliament being the highest court, the last resort, from which there was no appeal, when this last resort was misinformed or misgoverned, it turned to the most fatal grievance, for in such cases, the subject was left without remedy.

After this speech, the archbishop performed his devotions with great fervency, and then moving towards the block, found the scaffold so crowded with his enemies that came to triumph, that he was forced to entreat them to make way, and give him room to die; but Sir John Clotworthy, who endeavoured to give him all the disturbance he could in his last moments, still stood in his way, and demanded what text of scripture was most comfortable to a dying man? to which his grace answered *Cupio dissolvi, et esse cum Christo*: but Sir John replied, there must be an assurance to found that desire upon; and Sir John continuing this barbarous treatment, the archbishop could find no other way to get rid of the impertinent zealot, than by bidding the executioner do his office; and he separated his head from his body at one blow.

CHARLES I. KING OF GREAT BRITAIN.

BEFORE THE HIGH COURT OF JUSTICE, AT WESTMINSTER,
FOR TYRANNY, TREASON, AND MURDER, 20TH JANU-
ARY, 1648.

WE shall not enter upon a detail of this king's reign, the history of which is sufficiently known, but merely preface his trial with a brief account of what immediately led to it. After the battle of Naseby, June 14th, 1645, the king retired into Wales, with the body of horse which remained entire; and Fairfax marching into the west, relieved Taunton, took Bridgewater and Bath, and then laid siege to Bristol. Into this important city prince Rupert had thrown himself; and from the strength of the garrison, and the reputation of the governor, an obstinate resistance was expected. Matters, however, turned out quite the reverse. No sooner had the parliamentary army entered the lines by storm, than the prince

capitulated, which so provoked his uncle, that he instantly recalled all his nephew's commissions, and sent him a pass to go beyond sea. In fact, though this prince seems to have possessed an impetuous courage, he wanted cool prudence; and his precipitancy on more occasions than one hastened the ruin of the king's affairs.

On the side of the royalists, every thing now fell into decline. Charles himself escaping to Oxford, shut himself up there with the broken remains of his army. The prince of Wales retired to France, where he joined his mother; the west submitted to the arms of Fairfax and Cromwell; and the defeat of Montrose at Philiphaugh, after a series of splendid actions, seemed to seal the final destiny of the king's party.

The presbyterians and independents, whom mutual danger had united, now began to quarrel with each other; while the king, who hoped to receive some advantage from these dissensions, was at a loss which it would be most for his interest to side with. He had, however, but a short time for decision. Fairfax, with a victorious army, was approaching to lay siege to Oxford, which must infallibly surrender. In this desperate extremity Charles adopted an expedient, which had been suggested by Montreville, the French ambassador, of seeking protection from the Scottish army, which at that time lay before Newark.

Accompanied only by Dr. Hudson and Mr. Ashburnham, the king privately set out from Oxford in the guise of a servant, and passing through numerous cross roads, safely reached the Scottish camp. The generals and commissioners of that nation affected great surprise on the appearance of the king, and the English parliament hearing of his escape from Oxford, threatened instant death to whosoever should harbour or conceal him. The Scots, therefore, were obliged to justify themselves by declaring that they had entered into no private understanding with his majesty; and to the eternal disgrace of the agents in this shameful business, after keeping him some time a prisoner, they agreed to surrender him to the parliament for 400,000*l.* half of which was to be paid instantly.

The infamy of this bargain had such an effect on the

Scottish parliament, that they once voted the king should be protected, and his liberty insisted on: but these generous emotions were stifled by the cries of the covenanters, whom Charles out of his love to episcopacy, could never be prevailed on to favor.

Charles received the final resolution of the Scots to surrender him, while he was playing at chess; and so little was he affected by the news, that he finished his game without the least appearance of discomposure. Being conveyed by commissioners sent for that purpose, to Holdenby Castle, in Northumberland, his ancient servants were dismissed, and all communication with his friends or family was prohibited.

In opposition to the parliament at Westminster, a military parliament was formed: together with a council of the principal officers, on the model of the house of peers, representatives of the army were composed by the election of two private men or inferior officers, under the title of agitators; from each troop or company.

This court voted the conduct of parliament unsatisfactory, and foreseeing that civil anarchy, from the very nature of things, must at last terminate in military despotism, they took care to strike a blow which at once decided the victory in their favour.

A party of five hundred horse, under the command of cornet Joyce, who had once been a tailor, but was now an active agitator, appeared at Holdenby. Joyce rushing into the king's presence, armed with pistols, told him he must go along with him. "Whither?" said the king. "To the army," replied Joyce. "By what authority?" asked the king. Joyce pointing to the soldiers, who were tall, handsome, and well-accoutred. Charles smiling said, "Your warrant is written in fair characters, legible without spelling."

Resistance of course was vain, and Charles stepping into his coach, was safely conducted to the army, which was hastening to its rendezvous at Triplo Heath, near Cambridge. Fairfax was ignorant of this manœuvre, and it was not till the arrival of Cromwell, who had been to wait on parliament with his usual hypocrisy, that the intrigue was developed. On his appearance in the camp, he was received with loud acclamations, and was instantly invested with the supreme command.

Sensible that the parliament, though in great dismay at present, had many resources, he advanced upon them with his army, and in a few days reached St. Alban's. All was in confusion at Westminster, and the army, hoping by terror to effect all their purposes, halted at St. Alban's, and entered into negotiation with their masters.

The army, in their usurpations on the parliament, copied exactly the model which the parliament had set them, in their recent usurpations on the crown. Every day they rose in their demands, and one concession only paved the way to another still more exorbitant. At last seeing no danger of resistance, in order to save appearances, they removed to a greater distance from London, and fixed their head quarters at Reading.

Charles, who was constantly carried with them, found his situation much more comfortable than at Holdenby. His friends and children were allowed access to him, and both Cromwell and the parliament paid court to him; and so confident did he appear, that all parties would find it for their interest to have recourse to his lawful authority, that on several occasions he observed, "You cannot be without me, you cannot settle the nation but by my assistance."

Charles, however, though he wished to hold the balance between the opposite factions, placed his chief reliance on the army at this period; and to bring it over to his interest, he made the most splendid offers to Cromwell and Ireton. The former seemed to listen to his proposals, but probably he had already conceived views of higher ambition than to be the first of subjects.

Cromwell systematically pursued his plan of humbling the parliament, and of being left in England without a competitor. A petition being presented by the apprentices and seditious multitude, against some decrees of parliament, and the house being obliged to retract its votes, the army, under pretence of restoring both houses to liberty, advanced to Hounslow, where Manchester and Lethnal, the two speakers, having secretly retired, by collusion, presented themselves with all the ensigns of their dignity, and complained of the violence that had been put upon them.

The two speakers were gladly received, and being

conducted to Westminster by a military force, every act which had passed in their absence was annulled ; and the party which espoused the interests of the army became completely triumphant.

The generals having now established their dominion over the city and parliament, ventured to bring the king to Hampton Court ; but, finding his prospects daily become worse, from the insolence of the agitators, which rose in proportion to their success, and despairing of bringing Cromwell over to his views, he adopted the sudden and impolitic resolution of withdrawing, attended only by sir John Berkeley, Ashburnham, and Legge. Next day he reached Titchfield, but, sensible that he could not long remain concealed there, he imprudently committed himself into the hands of Hammond, governor of the Isle of Wight, a mere creature of Cromwell's, by whom he was carried to Carisbrooke Castle, and confined a prisoner, though treated with the externals of duty and respect.

Cromwell, now free from all anxiety in regard to the custody of the king's person, and awed by no authority, applied himself seriously to quell the disorders of the army, which himself had so diligently raised. He issued orders for the discontinuing the meetings of the agitators ; but these *levellers* as they were called, making a shew of resistance, Cromwell, in the moment of a review, seized the ringleaders before their companions, caused one mutineer to be shot instantly, and struck such terror into the rest, that they quietly returned to discipline and obedience.

Cromwell, who paid great deference to the counsels of Ireton, a man who had grafted the soldier on the lawyer, and the statesman on the saint, by his suggestion called a council of officers at Windsor, where was first opened the daring design of bringing their sovereign to condign punishment for mal-administration. But the time for carrying this into execution was not yet arrived, though it was hastened by the intemperance of parliament, whose motions Cromwell directed.

That assembly, in their transactions with Charles, no longer paid any regard to reason or equity. They transmitted him four proposals, to which he was to give his positive assent before they would deign to treat. The

first was, that he should invest parliament with the military power for twenty years; the second, that he should recall all his proclamations and declarations against the parliament, and acknowledge that they had taken up arms in their just and necessary defence; the third, that he should annul all the acts, and void all the patents of peerage which had passed the great seal since the commencement of the civil wars; and the fourth was, that he should give the two houses liberty to adjourn as they thought proper.

Charles, though a prisoner, regarded these demands as exorbitant, especially as there was no security that these concessions should lead to any final settlement. The republicans took fire at this remark; and Cromwell, after expatiating on the valour and godliness of the army, added, "Teach them not, by your neglecting your own safety and that of the kingdom, to imagine themselves betrayed, and their interests abandoned to the rage and malice of an irreconcilable enemy, whom, for your sake, they have dared to provoke. Beware (and at these words he laid his hand on his sword), beware lest despair cause them to seek safety by some other means than by adhering to you, who know not how to consult your own safety."

Ninety-one members, however, had still the virtue and the courage to oppose this military threat; but the majority decided, that no more addresses were to be made to the king, and that it should be high-treason for any person to correspond with him without a licence from parliament.

By this vote the king was actually dethroned; but the parliament and the army enjoyed not in tranquillity that power which, with so much injustice and violence, they had obtained.

The Scots, alarmed at the subjection of parliament to the army, and the confinement of the king, had resolved to arm 40,000 men in support of their native prince, and secretly entered into correspondence with the English royalists, who excited insurrections in several parts of the kingdom. At the same time, seventeen ships lying at the mouth of the river, declared for the king, and setting their admiral ashore, sailed to Holland, where the prince of Wales took the command of them.

Cromwell and his military council, however, prepared themselves with vigour and conduct for defence ; and, during this interval, parliament having regained some share of liberty, repealed the vote for non-addressing, and five peers and ten commoners were sent to Newport in the Isle of Wight, as commissioners to treat with Charles.

From the time that the king had been a prisoner, he had totally neglected his person : his beard was suffered to grow long, and his hair, either from the decline of years, or the load of sorrow with which he was oppressed, was turned quite grey. But the vigour of his mind was still unbroken ; and alone and unsupported for two months, he maintained an argument against fifteen men of the greatest parts and capacity in both houses, without suffering any advantage to be taken of him. He offered to recall all his proclamations, and to acknowledge that parliament had taken arms in their own defence ; he agreed that assembly should retain for twenty years the power over the militia and the army, and of levying what money they pleased, with the liberty to fill all the great offices of state ; but two demands he positively resisted. He would neither give up his friends to punishment, nor agree to abolish episcopacy, though he was willing to temper it.

The council of general officers demanded the dissolution of the present parliament, and a more equal representation in future. At the same time they advanced the troops to Windsor, and ordered the king to be removed to Hurst Castle, in Hampshire. Parliament, however, had the courage to set aside the remonstrance of the army, and to issue orders to forbid its nearer approach to London. But the generals were not to be intimidated by a vote or a decree. They advanced their troops to the metropolis, and surrounded the parliament with their hostile preparations.

In this dilemma, the parliament had the resolution to attempt to close their treaty with the king ; and, after a violent debate of three days, it was carried by a majority of one hundred and twenty-nine, against eighty-three, in the house of commons, that the king's concessions were a foundation for the houses to proceed upon in the settlement of the kingdom.

Next day, however, when the commons were about to meet, Colonel Pride, formerly a dray-man, having surrounded the house with two regiments, forty-one members of the presbyterian party were seized, and above one hundred and sixty more were excluded. In short, none but the most determined of the independents were allowed to enter, and these did not exceed the number of fifty or sixty. This invasion of the parliament commonly passed under the name of *Colonel Pride's purge*. The independents instantly reversed the former vote, which might yet have saved the king and constitution, and declared the concessions of Charles unsatisfactory: they renewed their vote of non-addresses; and committed some of the leading presbyterian members to prison.

A scheme was now taken into consideration, by the generals, called, "The agreement of the people," which laid the basis of a republic; and that they might confirm all their former iniquity and fanatical extravagance, they urged on the remaining shadow of a parliament, to prepare and bring in a specific charge against their sovereign. A vote was accordingly passed, declaring it treason in a king to levy war against his parliament, and appointing a high court of justice to try Charles, for this new-invented treason.

The house of peers, which had in a manner been deserted, was called upon in the usual way for their sanction to this vote; but of sixteen members who were present, not one would agree to such an infamous plan; and, therefore, having instantly rejected the vote of the lower house, they adjourned for ten days, in hopes, by this delay, to retard the furious career of the commons.

This obstacle, however, was easily surmounted by that body. Having assumed as a principle, "That the people are the origin of all just power," they declared that the commons represented the people, and that their decrees had the force of laws. The ordinance for the trial of Charles Stewart was then read, and unanimously agreed to. It was as follows:—

"Whereas it is notorious, That Charles Stewart, now king of England, not content with those many encroachments, which his predecessors had made upon the people in their rights and freedoms, hath had a wicked design totally to subvert the ancient and fundamental laws and liberties of this nation, and in their stead to introduce an arbitrary and tyrannical government; and that, besides all other evil

ways and means to bring this design to pass, he hath prosecuted with fire and sword, levied and maintained a cruel war in the land against the parliament and kingdom, whereby the country has been miserably wasted, the public treasure exhausted, trade decayed, thousands of people murdered, and infinite other mischiefs committed; for all which wicked and treasonable offences, the said Charles Stewart might long since have been brought to exemplary and condign punishment: whereas also the parliament, well hoping that the restraint and imprisonment of his person, after it had pleased God to deliver him into their hands, would have quieted the distempers of the kingdom, did forbear to proceed judicially against him; but found by sad experience, that such their remissness served only to encourage him and his accomplices in the continuance of their evil practices, and in raising of new commotions, rebellions, and invasions. For prevention thereof of the like or greater inconveniences, and to the end no chief officer or magistrate whatsoever may hereafter presume traitorously and maliciously to imagine or contrive the enslaving or destroying of the English nation, and so expect impunity for so doing: be it ordained and enacted by the Commons in parliament, and it is hereby enacted by the authority thereof: That Thomas Lord Fairfax, Oliver Cromwell, Henry Ireton, esqrs.; Sir Hardress Waller, knight; Philip Skippon, Valentine Walton, Thomas Harrison, Edward Whaley, Thomas Pride, Isaac Ewer, Richard Ingoldsby, Henry Mildmay, esqs.; Sir Thomas Honywood, Thomas, Lord Gray of Groby; Philip, Lord Lisle; William, Lord Mounson; Sir John Danvers, Sir Thomas Malverer, bart., Sir John Bouchier, Sir James Harrington, Sir William Alanson, Sir Henry Mildmay, Sir Thomas Wroth, knights: Sir William Masham, Sir John Barrington, Sir William Brereton, baronets; Robert Wallop, William Hevingham, esqrs.; Isaac Pennington, Thomas Atkins, Rowland Wilson, Aldermen of the City of London; Sir Peter Wentworth, Knight of the Bath; Henry Martin, William Purfoy, Godfrey Rosvile, John Trenchard, Herbert Morley, John Barkstead, Matthew Thomlinson, John Blackiston, Gilbert Millington, esqrs.; Sir William Constable, bart.; Edmund Ludlow, John Lambert, John Hutchinson, esqrs.; Sir Arthur Haslerig, Sir Michael Livesey, barts.; Richard Salway, Humphrey Salway, Robert Titchburn, Owen Roe, Robert Manwaring, Robert Lilburn, Adrian Scroop, Richard Dean, John Okey, Robert Overton, John Huson, John Desborough, William Goffe, Robert Duckenfield, Cornelius Holland, John Carew, esqrs.; Sir William Armin, bart.; John Jones, Miles Corbett, Francis Allen, Thomas Lister, Benjamin Weston, Peregrine Pelham, John Gourden, esqrs.; Francis Thorp, Serjeant-at-Law; John Nut, Thomas Chaloner, Algernon Sidney, John Anlaby, John More, Richard Darley, William Say, John Alured, John Fagg, James Nelthorpe, esqrs.; Sir William Roberts, knt.; Francis Lassels, Alexander Rigby, Henry Smith, Edmund Wild, James Chaloner, Josias Berners, Dennis Bond, Humphrey Edwards, Gregory Clement, John Fry, Thomas Wogan, esqrs.; Sir Gregory Norton, bart.; John Bradshaw, Serjeant-at-Law: Edmond Harvey, John Dove, John Ven, esqrs.; John Fowls, Alderman of the City of London; Thomas Scot, esq.; Thomas Andrews, Alderman of the City of London;

William Cawley, Abraham Burrel, Anthony Stapeley, Roger Gratwick, John Peters, Thomas Horton, Thomas Hammond, George Fenwick, esqrs.; Robert Nicholas, Serjeant-at-Law; Robert Reynolds, John Lisle, Nicholas Love, Vincent Potter, esqrs.; Sir Edward Bainton, John Corbet, Thomas Blunt, Thomas Boone, Augustine Garland, Augustine Skinner, John Dixwell, George Fleetwood, Simon Mayne, James Temple, Peter Temple, Daniel Blagrove, esqrs.; Sir Peter Temple, knight and baronet; Thomas Wayte, John Brown, John Lowry, esqrs.; shall, and are hereby appointed and required to be commissioners for the hearing, trying, and adjudging of the said Charles Stewart: and the said commissioners, or any twenty or more of them, shall be and are hereby authorised and constituted a High Court of Justice, to meet and sit at such convenient time and place, as by the said commissioners, or the major part of twenty or more of them, under their hands and seals, shall be appointed and notified by public proclamation in the great Hall or Palace-yard at Westminster, and to adjourn from time to time, and from place to place, as the said High Court, or the major part thereof meeting, shall hold fit; and to take order for the charging him the said Charles Stewart with the crimes and treasons above-mentioned, and for receiving of his personal answer thereunto, and for the examination of witnesses upon oath, which the court hath hereby authority to administer, or otherwise; and taken any other evidence concerning the same, and thereupon, or in default of such answer, to proceed to final sentence, according to justice and the merit of the cause: and such final sentence to execute, or cause to be executed speedily and impartially. And the said court is hereby authorized and required to appoint and direct all such officers, attendants, and other circumstances, as they, or the major part of them, shall in any sort judge necessary or useful for the orderly and good managing of the premises. And Thomas, Lord Fairfax, the general, and all officers and soldiers under his command, and all officers of Justice, and other well-affected persons, are hereby authorized and required to be aiding and assisting unto the said court in the due execution of the trust hereby committed: Provided, that this act, and the authority hereby granted, do continue in force for the space of one month from the making hereof, and no longer."

The Commons in pursuance to this act, ordering the commissioners to meet on the 8th in the Painted-Chamber, the act was there openly read, and the court called.

COMMISSIONERS PRESENT.

Thomas Lord Fairfax	John Ven, Esq.	James Temple, Esq.
Oliver Cromwell, Esq.	Henry Martin, Esq.	Adrian Scroop, Esq.
Henry Ireton, Esq.	John Berkstead, Esq.	Edmond Ludlow, 1 sq.
Sir Hardress Waller	Gilb. Millington, Esq.	John Huson, Esq.
Valen. Walton, Esq.	Richard Dean, Esq.	Thos. Harrison, Esq.
Edward Whaley	Corn. Holland, Esq.	Nicholas Love, Esq.
Thomas Pride	John Jones, Esq.	T. Lord Grey of Groby
John Peters	John Alured, Esq.	Sir John Danvers
Sir G. Norton, Bart.	Henry Smyth, Esq.	Sir T. Maleverer, Bart.
Peter Temple, Esq.	John Lisle, Esq.	Sir John Bouchier

Sir Henry Mildmay	Wm. Purefoy, Esq.	John Downs, Esq.
James Challoner, Esq.	John Blackiston, Esq.	John Brown, Esq.
Gregory Clement, Esq.	Wm. Lord Mounson	J. Hutchinson, Esq.
John Fry, Esq.	John Okey, Esq.	Miles Corbet, Esq.
August. Garland, Esq.	John Carew, Esq.	H. Edwards, Esq.
Daniel Blagrove, Esq.	Per. Pelham, Esq.	Edmond Harvey, Esq.
Rob. Titchbourn, Esq.	Francis Lassels, Esq.	William Goff, Esq.
W. Heveningham, Esq.		

These commissioners having appointed the court to be held on the 20th, Edward Dendy, Sergeant at Arms, was authorized by precept to make proclamation thereof in these words : —

“ By virtue of an act of the Commons of England, assembled in parliament, for erecting a High Court of Justice, for trying and judging Charles Stewart, king of England : we whose names are underwritten, being commissioners amongst others nominated in that act, do hereby appoint, that the High Court of Justice mentioned in the said act, shall be held in the Palace of Westminster, on Wednesday the 20th instant January, by one of the clock in the afternoon; and this we do appoint to be notified by public proclaiming thereof in the Great Hall at Westminster, to-morrow, being the ninth, betwixt the hours of nine and eleven in the forenoon. In testimony whereof, we have set our hands and seals, this 8th of Jan. Anno 1648.”

The first order they made was, that in case the prisoner should in language or carriage towards the court, be insolent, outrageous, or contemptuous, that it should be left to the president to reprehend him for it, and admonish him of his duty, as also to command the taking away of the prisoner, and if he saw cause, to withdraw or adjourn the court; but as to the prisoner's putting off his hat, the court would not insist upon it for that day, and that if the king desired time to answer, the president was to give him time. Then Lisle and Say, upon the president's desire and motion being ordered to be his assistants, and to sit near him in the court—the solicitor presented the charge against the king ingrossed on parchment, which was read, and being signed by the solicitor, was returned to him, to be exhibited against his majesty, in his presence in open court; and thereupon the court adjourned forthwith to Westminster-Hall.

This was Saturday the 20th of January, 1648, O. S. when the president of the High Court of Justice, his two assistants, and the rest of the commissioners came to the bench or place prepared for their sitting in the hall at the west end of it, divers officers of the court, on

and twenty partizans, and a sword and mace marching before them into the court, where the president in a crimson velvet chair fixed in the midst of the court, placed himself, having a desk, with a crimson velvet cushion before him; the rest of the members placing themselves on each side of him, upon several seats or benches, hung with scarlet for that purpose; the president's two assistants sitting next on each side of him, and the two clerks of the court placed at a table somewhat lower, and covered with a Turkey carpet; upon which table was also laid the sword and mace; the said guard of partizans dividing themselves on each side of the court before them. Then three proclamations being made for all persons that were adjourned over thither, to draw near, and silence enjoined, the great gate of the hall was set open, to the intent, as they said, that all persons, without exception, desirous to see or hear, might come into it, upon which the hall was presently filled, and silence again ordered and commanded.

Then the act of the Commons for erecting a High Court of Justice, for trying and judging Charles Stewart, King of England, being openly read by one of the clerks of the court, the court was called over, every commissioner present, thereupon rising to his name: they were sixty-five in number, and must not be omitted in this place.

JOHN BRADSHAW, SERJEANT AT LAW, LORD
PRESIDENT.

Oliver Cromwell	Gilbert Millington	William Goff
Henry Ireton	Sir William Constable	Cornelius Holland
Sir Hardress Waller	Edmond Ludlow	John Carew
Valentine Walton	John Hutchinson	John Jones
Thomas Harrison	Sir Michael Livesay	Thomas Lister
Edward Whaley	Robert Tichbourn	Peregrine Pelham
Thomas Pride	Owen Roe	Francis Allen
Isaac Ewer	Robert Lilbourn	Thomas Challoner
Lord Grey of Groby	Adrian Scroope	John Moor
Wm. Lord Mounson	Thomas Norton	William Say
Sir John Danvers	Thomas Hammond	John Allured
Sir John Malverer	John Lisle	Francis Lassells
Sir John Bouchier	Nicholas Love	Humphry Edwards
Isaac Pennington	Vincent Potter	Gregory Clement
Henry Martin	Augustine Garland	John Fry
William Purefoy	Richard Dean	Sir Gregory Norton
John Berksted	John Okey	Edmond Harvey
John Blackistone	John Huson	John Venn

Thomas Scot
William Cawley
Anthony Harley
John Downs

John Dixwell
Simon Meyne
James Temple

Peter Temple
Daniel Blagrove
John Brown.

This done, the court commanded the serjeant at arms to send for the prisoner, and thereupon Colonel Tomlinson, who had the charge of him, in a quarter of an hour's time brought him, attended by Colonel Hacker, and two and thirty officers with partizans, guarding him to the court, and his own servants immediately attending him: being thus brought up in the face of the court, the serjeant with his mace received him, and conducted him straight to the bar, having a crimson velvet chair set before him: his majesty, after he had looked sternly upon the court, and the people in the galleries on each side of him, placed himself in the chair, not at all moving his hat, or otherwise shewing the least regard to that novel judicature; but presently rising again, he turned about, looking downwards upon the guards placed on the left side, and the multitude of the spectators on the right of the hall; the guard that attended him, in the meantime dividing themselves on each side the court, and his own servants following him to the bar, stood on the left hand of their royal master.

His majesty having replaced himself in his chair, with his face towards the court, then Bradshaw said to the king—

“ Charles Stewart, King of England, the Commons of England assembled in Parliament, being sensible of the great calamities brought upon this nation, and of the innocent bloodshed, by you and your accomplices, according to that duty which they owe to God, the nation, and themselves, according to that power and fundamental trust reposed in them by the people, have constituted this High Court of Justice, before which you are now brought, and you are to hear your charge upon which the court will proceed to justice.”

Solicitor Cook. My Lord, in behalf of the Commons of England, and of all the people thereof, I do accuse Charles Stewart here present of high-treason and misdemeanors; and I do in the name of the Commons of England desire the charge may be read unto him.

The King. Hold a little.

Bradshaw. Sir, the court commands the charge to be read, afterward you may be heard.

The charge was read, containing in general:—

“ That the said Charles Stewart, being admitted King of England, and trusted with a limited power to govern according to the laws of

the land, and not otherwise, and by his trust, oath and office, being obliged to use the power committed to him for the good and benefit of the people, and for the preservation of their rights and liberties; yet nevertheless out of a wicked design, to erect and uphold in himself an unlimited and tyrannical power, to rule according to his will, and to overthrow the rights and liberties of the people, yea, to take away, and make void, the foundations thereof, and of all redress and remedy of misgovernment, which by the fundamental constitutions of this kingdom, were reserved on the people's behalf, in the right and power of frequent and successive parliaments, or national meetings in council. He, the said Charles Stewart, for accomplishing such designs, and for the protecting of himself, and his adherents, in his and their wicked practices, to the same ends, hath traitorously and maliciously levied war against the present parliament, and the people therein represented, particularly upon, or about the 30th day of June, in the year 1642, at Beverley, in the county of York, and upon or about the 30th day of July, the same year, in the county and city of York, and upon or about the 24th of August, the year aforesaid, at the county, and in the town of Nottingham, where and when he set up his standard of war; and also on or about the 22d of October, the same year, at Edge-hill and Keinton-field, in the county of Warwick, the said Charles Stewart, caused and procured many thousands of the free people of this nation to be slain, and by divisions, parties and insurrections in this land, and invasion from foreign parts endeavoured and procured by him, and by many other evil ways and means, hath not only maintained and carried on the said war by sea and land; but also hath renewed, or caused to be renewed, the said war against the parliament, and good people of this nation, in this present year 1648, in the counties of Kent, Essex, Surrey, Sussex, Middlesex, and many other counties and places in England and Wales, and also by sea: and particularly he the said Charles Stewart, hath for that purpose given commissions to his son the prince, and others, whereby besides multitudes of other persons, many such as were by the parliament entrusted and employed for the safety of the nation, (being by him, or his agents, corrupted, for the betraying of their trust, and revolting from the parliament) have had entertainment and commission for the continuing and renewing of war and hostility against the said parliament and people aforesaid: by which cruel and unnatural wars, by him the said Charles Stewart, levied, continued, and renewed as aforesaid, much innocent blood hath been spilt, many families have been undone, the public treasure exhausted, trade obstructed, and miserably decayed, vast expence and damage to the nation incurred, and many parts of the land spoiled, some of them even to desolation.

“ And for further prosecution of his said evil designs, he the said Charles Stewart doth still continue his commissions to the Prince of Wales, and other rebels and revolvers both English and foreigners: to the Earl of Ormond, and to the Irish rebels and revolvers associated with him, from whom farther invasions upon this land are threatened, upon the procurement, and on the behalf of the said Charles Stewart. All which wicked designs of war, and evil practices, are carried on for the advancing and upholding the personal

interest of will and power, and pretended prerogative to himself, and his family, against the public interest, common right, liberty, justice, and peace of the people of this nation, by, and for whom he was intrusted as aforesaid. By all which it appeareth,

“ That he the said Charles Stewart hath been, and is the occasioner, author, and contriver of the said unnatural, cruel and bloody wars, and therein guilty of all the treasons, murders, rapines, burnings, spoils, desolations, damages, and mischiefs to this nation, acted or committed in the said wars, or occasioned thereby. And the said John Cook by protestation, saving the liberty of exhibiting at any time hereafter, any other charge against the said Charles Stewart, and also of replying to the answers which he the said Charles Stewart shall make to the premises, or any of them, or any other charge shall be so exhibited, doth for the said treasons and crimes, on the behalf of the said people of England, impeach the said Charles Stewart, as a tyrant, traitor, murderer, and a public and implacable enemy to the commonwealth of England, and pray that the said Charles Stewart, King of England, may be put to answer all and every the premises, that such proceedings, examinations, trials, sentences, and judgment, may be thereupon had, as shall be agreeable to justice.”

The king while the charge was reading, sat in his chair, looking sometimes on the court, sometimes up to the galleries, and then rising up turned about to behold the guards and spectators; then he sat down with a majestic and unmoved countenance, and sometimes smiled, especially at those words, tyrant, traitor and murderer, and public enemy to the common-wealth.

About this time it was, that the silver head of his majesty's cane fell off. Sir Philip Warwick, a royalist, says in his memoirs, that the king himself confessed to the Bishop of London afterwards, that this accident made a great impression upon him, and to this hour, he added, I know not possibly how it should happen. Whether it was a silver, or a gold head, according to Sir Philip, is not very material: it is generally allowed, that the king seeing nobody would take it up, stooped for it himself, though Lilly, in his history of his life and times, says, he saw the head fall off, and that Mr. Rushworth took it up.

Bradshaw.—Sir, you have heard your charge, and you find in the close of it, that the court is prayed, in behalf of the Commons of England, that you answer to your charge, which the court now expects.

The King.—I would know by what power I am called hither: I was not long ago in the Isle of Wight; how I came hither is a longer story than I think fit at this time to relate. There I entered into a

treaty with both houses of parliament, with as much faith as is possible to be had of any people in the world: I treated there with a number of honourable Lords and Gentlemen, and treated honestly and uprightly: I cannot say but they did nobly with me: we were upon the conclusion of the treaty. Now I would know by what lawful authority (there are many unlawful authorities, such as thieves and robbers on the high-way) I was brought from thence, and carried from place to place, and I know not what, and when I know by what authority, I shall answer. Remember I am your king, your lawful king, and beware lest you bring sin upon your own heads, and the judgment of God upon this land: think well upon it, I say, before you go on from one sin to a greater, therefore let me know by what lawful authority I am seated here, and I shall not be unwilling to answer. In the meantime I shall not betray my trust: I have a trust committed to me by God, by old and lawful descent, and I will not betray it, to answer to a new unlawful authority.

Bradshaw.—If you had been pleased to observe what was hinted to you by the court at your first coming hither, you would have known by what authority: which authority requires you in the name of the people of England, of whom you are elected king, to answer them.

King.—I deny that.

Bradshaw.—If you acknowledge not the authority of the court, they must proceed.

King.—I do tell them so, England was never an elective kingdom; but an hereditary kingdom for near these thousand years; therefore let me know by what lawful authority I am called hither: I do stand more for the liberty of my people than any here that come to be my pretended judges, and therefore let me know by what lawful authority, and I will answer, otherwise I will not answer.

Bradshaw.—How you have managed your trust, is known; your way of answer is to interrogate the court, which becomes you not in this condition, you have been told of it twice or thrice.

King.—Here is Lieutenant-Colonel Corbet, ask him, if he did not bring me from the Isle of Wight by force, I do not come here as submitting to the court; I will stand as much for the privilege of the House of Commons, rightly understood, as any man here whatsoever. I see no House of Lords that may constitute a parliament, and the king too, it should have been. Is this the bringing the king to his parliament? Is this the putting an end to the treaty on the public faith? Let me see a lawful authority, warranted by the word of God, the Scriptures, or by the Constitution of the kingdom. I will not betray my trust, or the liberty of my people. I am sworn to keep the peace by that duty I owe to God and my country, and I will do it to the last breath in my body. As it is a sin to withstand lawful authority, so it is to submit to a tyrannical, or any otherwise unlawful authority.

Bradshaw.—The court expects your final answer, and will adjourn till Monday next: we are satisfied with our authority, who are your judges, and it is upon God's authority, and the kingdom's; and that peace you speak of will be kept in doing justice, and that's our present work.

King.—For answer, let me tell you, I have seen no authority to satisfy any reasonable man.

Bradshaw.—That is in your apprehension; we are satisfied, that are your judges.

King.—'Tis not my apprehension, nor yours neither, that ought to decide it.

Bradshaw.—The court has heard you, and you are to be disposed of as they have commanded.

So ordering the guards to take him away, his majesty only replied, Well, Sir, and at his going down, pointing with his staff to the charge that lay on the table, he said, I don't fear that: for it is a direct mistake, that his pointing was to the axe, for there was none there: as he went down the stairs, some people in the hall cried, God save the King, though others called for Justice, Justice.

On Monday, January 22d, the court first sat private in the Painted Chamber, where sixty-one were present, viz. :—

JOHN BRADSHAW, SERJEANT AT LAW, LORD
PRESIDENT.

William Say	Lord Grey of Groby	Cornelius Holland
John Downs	Sir Gregory Norton	Humphrey Edwards
Edward Whaley	Robert Wallap	Vincent Potter
Francis Allen	James Temple	John Okey
Sir Thos. Maleverer	Owen Roe	John Blackison
Valentine Walton	Richard Dean	Thomas Hammond
Peter Temple	William Goff	Daniel Blaggrave
John Fry	Francis Lassells	Wm. Haveningham
Thomas Scot	Edmond Ludlow	Sir Mich. Livesay
Henry Smith	William Cawley	John Berkstead
Thomas Pride	Gilbert Millington	P. Pelham
Augustine Garland	Sir Hardress Waller	Adrian Scroop
John Venn	Anthony Stapley	John Dixwell
Sir John Bouchier	John Jones	John Moor
William Purefoy	Nicholas Love	Robert Tichbourne
Sir Wm. Constable	John Carew	James Challoner
I. Pennington, Alder.	Thomas Andrews, Al-	Gregory Clement
Thomas Harrison	derman of London	W. Lord Mounson
Edward Harvey	Isaac Ewers	Henry Martin
John Hutchinson	John Huson	Thomas Challoner.
Oliver Cromwell		

After Colonel Harvey had signified to the court in behalf of Mr. John Corbet, a member, that his absence was not from any disaffection to their proceedings, but upon the account of other special employment he had in the service of the state, they proceeded to consider of the king's behaviour, and perceiving he struck at their jurisdiction, they peremptorily resolved he should not be suffered to bring in question what he aimed at, and

ordered that if he should again fall into that discourse, the president should tell him, that they had taken his demands into consideration, and that he ought to rest satisfied with this answer; that the Commons of England assembled in Parliament have constituted this court, whose power might not, nor should not be permitted to be disputed by him, and that they were resolved he should answer to his charge: that if he did it with a salvo to his pretended prerogative, the president in the court's name should reject his protests, and require his positive answer; that if he should require a copy of the charge, upon declaring his intention to answer, it should be granted him. That if he still persisted in his contempt, as they called it, the president should command the clerk to demand of him in the name of the court, in these words following, viz.

Charles Stewart, King of England, you are accused in the name of the people of England, of divers high crimes and treasons, which charge has been read unto you; the court requires you to give a positive answer, whether you confess or deny the charge, having determined that you ought to answer the same.

Then they adjourned to Westminster Hall, where these sixty-nine members were present.

JOHN BRADSHAW, PRESIDENT.

William Say	John Jones	Gilbert Millington
John Lisle	Francis Allen	Sir Wm. Constable,
Oliver Cromwell	Peregrine Pelham	Bart.
Henry Ireton	Thomas Challoner	Sir Mich. Livesay
Sir Hardress Waller	John Moor	Bart.
Valentine Walton	John Alured	Robert Tichborne
Thomas Harrison	Francis Lassells	Owen Roe
Edward Whalley	Henry Smyth	Adrian Scroop
Thomas Pride	James Challoner	John Dean
Isaac Ewer	Gregory Clement	John Okey
Thos. Lord Grey of	John Fry	John Hutchinson
Groby	Thomas Wogan	Sir Gregory Norton,
Will. Lord Mounson	Peter Temple	Bart.
Sir John Danvers	Robert Wallop	Edmond Harvey
Sir Thos. Maleverer	Will. Heveningham	John Venn
Sir John Bouchier	Isaac Pennington, Al-	Thomas Scot
Edmund Ludlow	derman of London	Thomas Andrews, Al-
John Huson	Henry Martin	derman of London
William Goff	William Purefoy	Wm. Cawley, Alder-
Cornelius Holland	John Berksted	man
John Carew	William Tomlison	Anthony Stapley
Robert Milbourne	John Blackistone	John Downs

Thomas Norton	Sir Gilbert Pickering,	James Temple
Thomas Hammond	Bart.	Daniel Blagrove
Nicholas Love	Augustine Garland	Humphrey Edwards
Vincent Potter	John Dixwell	

The royal prisoner being brought before this tribunal.

Solicitor Cook.—I did at the last court in behalf of the people of England, exhibit, and give into the court a charge of high treason, and other crimes against the prisoner at the bar, whereof I do accuse him in the name of the people of England, and the charge was read unto him, and his answer required. My Lord, he was not then pleased to give an answer; but instead of answering, did dispute the authority of this high-court; my humble motion to this high-court, in behalf of the kingdom, is, that the prisoner may be directed to make a positive answer, either by way of confession or negation, which if he shall refuse to do, that the matter of charge may be taken *pro confesso*, and the court may proceed according to justice.

Bradshaw to the King.—Sir, you may remember at the last court, you were told the occasion of your being brought hither, and you heard the charge read against you, &c. You heard likewise what was prayed on behalf of the people, that you should give an answer to that charge: you were then pleased to make some scruples concerning the authority of this court, and said, you knew not by what authority you was brought hither: you did divers times propound your questions, and were as often answered, that it was by the authority of the Commons of England, assembled in parliament, that did think fit to call you to an account, for those high and capital misdemeanors, wherewith you then were charged, since that the court hath taken into consideration what you then said: they are fully satisfied with their own authority, and they hold it fit you should stand satisfied therewith too; and they do require, that you give a positive and particular answer to their charge exhibited against you, they expect you should either confess or deny. If you deny, it is offered on the behalf of the kingdom to be made good against you: their authority they avow to the whole world, and the whole kingdom are to rest satisfied in it, and therefore you are to lose no more time, but to give a positive answer thereunto.

King.—When I was here last, it is true, I made that question, and truly, if it were only my particular case, I would have satisfied myself with a protestation I made here the last time, against the legality of this court, and that a king cannot be tried by any superior jurisdiction upon earth; but it is not my case alone, it is the freedom and liberties of the people of England; and do you pretend what you will, I stand more for their liberties than you; for if power without laws may make laws, and may alter the fundamental laws of the kingdom, I do not know what subject he is in England that can be sure of his life, or any thing that he calls his own: therefore, when I came hither, I did expect particular reasons to know by what law, by what authority, you proceed against me here, and therefore I am a little to seek what I am to say to you in this particular, because the affirmative is to be proved; the negative is often very

hard to do. I shall tell you my reasons as short as I can. All proceedings against any man whatsoever—

Here Bradshaw interrupted the king, saying,

Sir, I must interrupt you, what you do is not agreeable to the proceedings of any court of justice. You are about to enter into arguments and dispute concerning the authority of this court, before whom you appear as a prisoner, and are charged as an high delinquent: you may not dispute the authority of this court, nor will any court give way unto it, you are to submit to it, you are to give a punctual and direct answer; whether you will answer your charge or no, and what your answer is.

King.—Sir by your favour, although I do not know the forms of law, I do know law and reason; I know as much law as any gentleman in England, and therefore, under favour, I do plead for the liberty of the people of England more than you do, and therefore, if I should impose a belief on any man without reasons given, it is unreasonable. But I must tell you, that by the reason that I have, as thus informed, I cannot yield unto it.

Here Bradshaw interrupted him again.

Bradshaw.—Sir, I must interrupt you. You may not be permitted; you speak of law and reason, and these are both against you. Sir, the vote of the Commons of England, assembled in parliament, is the reason of the kingdom, and they are those that have given you that law, according to which you should have ruled and reigned. Sir, you are not to dispute our authority; you are told it again by the court, Sir, it will be taken notice of that you stand in contempt of the court, and your contempt will be recorded accordingly.

King.—I do not know how a king can be a delinquent: but by all the laws that ever I heard of, all men, delinquents or what you will, may put in demurrers against any proceedings, as illegal; and I do demand that, and demand to be heard with my reasons. If you deny that, you deny reason.

Bradshaw.—Sir, you have offered something to the court; I shall speak something to you of the sense of the court: Sir, neither you, nor any man, are permitted to dispute that point, you are concluded, you may not demur to the jurisdiction of the court: if you do I must let you know they overrule your demurrer. They sit here by the authority of the commons of England, and all your predecessors and you are responsible to them.

King.—I deny that: shew me one precedent.

Bradshaw.—Sir, you are not to interrupt while the court is speaking to you; this point is not to be debated by you, neither will the court permit you to do it. If you offer it by way of demurrer to the jurisdiction of the court, they have considered of their jurisdiction; they do affirm their own jurisdiction.

King.—Sir, I say, by your favour, that the commons of England were never a court of judicature: I would fain know how they came to be so.

Bradshaw.—Sir, you are not to be permitted to go on in that speech, and these discourses.

Then the clerk of the court read as follows :

Charles Stewart, King of England, you have been accused, in the behalf of the people of England of high treason, and other high crimes ; the court hath determined that you ought to answer the same.

King.—I will answer the same, as soon as I know by what authority you do this.

Bradshaw.—If this be all you say, then, gentlemen, you that brought the prisoner hither take charge of him back again.

King.—I do require that I may give my reasons why I do not answer, and give me time for that.

Bradshaw.—Sir, it is not for prisoners to require.

King.—Prisoner ! Sir, I am not an ordinary prisoner.

Bradshaw.—The court have already affirmed their own jurisdiction : if you will not answer, we shall give order to record your default.

King.—You never heard my reasons yet.

Bradshaw.—Sir, your reasons are not to be heard against the jurisdiction of the court.

King.—Shew me that jurisdiction where reason is not to be heard.

Bradshaw.—Sir, we shew it you here : the Commons of England. And the next time you are brought, you will know more of the pleasure of the court, and, it may be their final determination.

King.—Shew me where ever the house of commons was a court of judicature of this kind.

Bradshaw.—Serjeant take away the prisoner.

King.—Well, Sir, remember that the king is not suffered to give in his reasons, for the liberty and freedom of all his subjects.

Bradshaw.—Sir, you are not to have liberty to use this language ; how great a friend you have been to the laws and liberty of the people, let all England and the world judge.

King.—Under favour, Sir, it was the liberty, freedom, and laws of the subject that ever I took ; I defended myself with arms ; I never took up arms against the people, but for the laws.

Bradshaw.—The command of the court must be obeyed ; no answer will be given to the charge.

So the king was guarded out to Sir Robert Cotton's house.

The court adjourned, at the same time, to the Painted Chamber, where were sixty-three of the judges,

JOHN BRADSHAW, PRESIDENT.

John Lisle	Edward Whaley	Isaac Pennington, At-
William Say	John Venn	derman
Sir James Harrington,	Richard Dean	Thomas Harrison
Knt.	John Huson	Adrian Scroop
Francis Allen	Thomas Lord Grey of	Robert Lilbourn
Henry Martin	Groby	Sir Gregory Norton
Thomas Scott	William Purefoy	Cornelius Holland
Sir Hardress Waller	Daniel Blagrave	William Cowley

Augustine Garland	Sir John Danvers	John Fry
Nicholas Love	Simon Meyne	Sir Thos. Maleverer,
Thomas Hammond	Vincent Potter	Bart.
John Moor	Oliver Cromwell	Gregory Clement
Edmond Harvey	Edmond Ludlow	John Carew
John Huson	John Blackistone	Thomas Andrews, Al-
Henry Smyth	Sir Henry Mildmay	derman of London
Thomas Challoners	John Hutchinson	John Dixwell
Miles Corbet	Peter Temple	Sir Gilbert Pickering,
John Okey	Henry Ireton	Bart.
Sir Wm. Constable,	Sir Michael Livesay,	Wm. Heveningham
Bart.	Bart.	Valentine Walton
Gilbert Millington	John Jones	John Downs
Humphry Edwards	James Temple	Owen Roe
Antony Stapley	Isaac Ever	
Robert Titchbourne	Sir John Bouchier	

Here they ordered their president to acquaint the king, that in case he continued contumacious, he was to expect no farther time, and therefore the president, in the court's name, was to demand his positive and final answer, and that if he should persist in his refusal, he was to command the clerk to read as follows:—

Charles Stewart, King of England, you are accused, on the behalf of the people of England, of divers high crimes and treasons: the court now require your final and positive answer, by way of confession or denial of the charge.

That nevertheless, if his majesty should agree to answer, and desire a copy of the charge, it might be granted him by the president: who yet was to let him know, that the court might in justice proceed forthwith to judgment for his former contumacy, and failure of answer, and that he should be required to give his answer to the said charge the next day, at one in the afternoon:

They then adjourned to Westminster Hall, where there appeared sixty-nine: viz.

JOHN BRADSHAW, PRESIDENT

Oliver Cromwell	Gilbert Millington	William Goff
Henry Ireton	Sir W. Constable, Bart.	Cornelius Holland
Sir Hardress Waller	Edmund Ludlow	John Carew
Valentine Walton	John Hutchinson	John Jones
Thomas Harrison	Sir M. Livesay, Bar.	Miles Corbet
Edward Whaley	Robert Titchbourne	Francis Allen
Thomas Pride	Owen Roe	Peregrine Pelham
Isaac Ewer	Robert Lilbourne	Thomas Challoner
Henry Martin	Adrian Scroope	John Moor
William Purefoy	Richard Dean	William Say
John Berkstead	John Okey	John Dixwell
John Blackiston	John Huson	Sir H. Mildmay, Kt.

Lord Grey of Gorby	Daniel Blagrove	Anthony Stapley
William Lord Manson	Humphry Edwards	John Downs
Sir John Danvers	Gregory Clement	Thomas Horton
Sir T. Maleverer. Bart	John Fry	Thomas Hammond
Sir J. Bouchier. Kt.	Thomas Wogan	John Lisle
Sir J. Harrington, Kt.	Sir Gregory Norton	Nicholas Love
Robert Wallop	Edward Harvey	Vincent Potter
W. Heveningham	John Venn	Sir. Gilbert Pickering,
Isaac Pennington, Al-	Thomas Scott	Bart.
derman of London	Thomas Andrews, Al-	Augustine Garland
Henry Smyth	derman of London	Simon Meyne.
James Temple.	William Cawley	

Solicitor Cook began thus :

May it please you my Lord President, this is now the third time, that by the great grace and favour of this high court, the prisoner has been brought to the bar ; before any issue joined in the cause, my Lord, I did at the first court exhibit a charge against him, containing the highest treason that ever was wrought upon the theatre of England ; that a king of England, entrusted to keep the law, that had taken an oath so to do, that had tribute paid for him for that end, should be guilty of a wicked design to subvert and destroy our laws, and introduce an arbitrary and tyrannical government, and in defiance of the parliament, and their authority, set up his standard for war against the parliament and people, and I did humbly pray in the behalf of the people of England, that he might be speedily made to answer to the charge.

But, my Lord, instead of making an answer, he did then dispute the authority of this high court. Your Lordship was pleased to give him a farther day to consider, which being yesterday, I humbly moved, he might be required to give a direct and positive answer, either by denying or confessing it : but, my Lord, he was then pleased to decline the jurisdiction of the court, which the court overruled, and commanded him to give a direct and positive answer.

My Lord, besides this great delay of justice, I shall humbly move your Lordship for speedy justice against him ; my Lord, I might press your Lordship upon the whole, that according to the known rules of the law of the land, if a prisoner stands as contumacious in contempt, and shall not put in an issuable plea, guilty or not guilty, of the charge given against him, whereby he may come to a fair trial, that as by an implicit confession it may be taken *pro confesso*, as it has been done to those who deserved more favour than the prisoner at the bar has done ; but, besides, my Lord, I shall humbly press your Lordship upon the whole fact, the House of Commons, the supreme authority and jurisdiction of the kingdom, they have declared, that, it is notorious that the matter of the charge is true ; as it is in truth, my Lord, as clear as the sun at noon-day, which, if your Lordship, and the court, be not satisfied in, I have notwithstanding on the people of England's behalf, several witnesses to produce. And therefore I do humbly pray, and yet I must confess, 'tis not so much I, as the innocent blood that has been shed, the cry whereof is very great, for justice and judgment, and therefore I do

humbly pray, that speedy judgment be pronounced against the prisoner at the bar.

Bradshaw.—Sir, you have heard what has been moved by the counsel in behalf of the kingdom against you. Sir, you may well remember, and if you do not, the court cannot forget what dilatory dealings it has found at your hands. You were pleased to propose some questions; you have had their resolutions upon them. You were told over and over again, that the court did affirm their own jurisdiction, that it was not for you, nor for any other man to dispute the jurisdiction of the supremest and highest authority in England, from which there is no appeal, and touching which, there must be no dispute; yet you did persist in such carriage, you gave no manner of obedience, nor did you acknowledge any authority in them, nor the high court that constituted this court of justice.

Sir, I must let you know from the court, that they are very sensible of these delays of yours, and that they ought not, being thus authorised by the supreme court of England, to be thus trifled with, and that they might in justice, if they pleased, and according to the rules of Justice, take advantage of these delays, and proceed to pronounce judgment against you; yet nevertheless they are pleased to give direction, and on their behalf I do require you, that you make a positive answer to this charge that is against you. Sir, in plain terms (for justice is no respecter of persons) you are to give our positive and final answer in plain English, whether you be guilty or not guilty of these treasons laid to your charge.

The king after a little pause, said :

When I was here yesterday, I did desire to speak for the liberties of the people of England, I was interrupted, I desire to know yet whether I may speak freely or not?

Bradshaw.—Sir, you have had the resolutions of the court upon the like question the last day, that having such a charge of so high a nature against you, your work was, that you ought to acknowledge the jurisdiction of the court, and to answer to your charge, which the court gives you now leave to do, though they might have taken the advantage of your contempt, yet if you be able to answer to your charge, when you have once answered, you shall be heard at large, make the best defence you can. But, sir, I must let you know from the court, as their commands, that you are not to be permitted to issue out into any other discourses, till such time as you have given a positive answer concerning the matter that is charged upon you.

King.—For the charge I value it not a rush; it is the liberty of the people of England that I stand for. For me to acknowledge a new court that I never heard of before, I that am your king, that should be an example to all the people of England, for to uphold justice, to maintain the old laws, indeed I know not how to do it. You spoke well the first day I came here, of the obligation that was laid on me by God to maintain the liberties of my people; the same obligation you spoke of, I do acknowledge to God and my people, to defend as much as in me lies, the ancient laws of the kingdom. Therefore, till I know that is not against the fundamental laws of the kingdom, I can put in no particular answer. If you will give me time, I will

shew you my reasons, and this—[here the king was interrupted again, but recovering himself, went on, saying,] by your favour, you ought not to interrupt me. How I came hither I know not, there is no law to make your king your prisoner. I was in a treaty on the public faith of the kingdom, made to me by the two houses of parliament, that was the representative of the kingdom, and I had almost made an end of the treaty, when I was hurried away, and brought hither, and therefore—

Bradshaw.—Sir, you must know the pleasure of the court.

King.—By your favour sir—[here Bradshaw interrupted him.]

Bradshaw. Nay, sir, by your favour, you may not be permitted to fall into those discourses, you appear as a delinquent, you have acknowledged the authority of the court, the court craves it not of you, but once more they command you to give your positive answer. Clerk, do your duty.

King.—Duty, Sir!

Then the clerk read :—

Charles Stewart, king of England, you are accused in behalf of the Commons of England, of divers high crimes and treasons which charge has been read unto you. The court now requires you to give your positive and final answer, by way of confession or denial of the charge.

King.—I say again to you, so that I may give satisfaction to the people of England of the clearness of my proceedings, not by way of answer, but to satisfy them, that I have done nothing against that trust that hath been committed to me, I would do it, but to acknowledge a new court against their privileges, to alter the fundamental laws of the kingdom, Sir, you must excuse me.

Bradshaw.—Sir, this is the third time that you have publicly disavowed this court, and put an affront upon it; how far you have preserved the privileges of the people, your actions have spoken, but truly, Sir, men's intentions should be known by their actions, you have written your meaning in bloody characters throughout the whole kingdom; but, sir, you understand the pleasure of the court. Clerk, record the default; you that took charge of the prisoner, take him back again.

King.—I will only say this one word more to you; if it were my own particular I would not say any more, nor interrupt you.

Bradshaw.—Sir, you have heard the pleasure of the court, and you are (notwithstanding you will not understand it) to find that you are before a court of justice.

So the king went forth with his guards, and the court adjourned to the Painted Chamber, the crier, as at other times, said, God bless the Kingdom of England.

They took into consideration the manner how the witnesses should be examined; and since the king had not pleaded to issue, and that this examination was *ex abundanti*, only for the further satisfaction of themselves,

as they termed it; they resolved the witnesses should be examined in the Painted Chamber before the court there; and that Millington and Challoner should forthwith repair to John Brown, Esq.; clerk of the House of Peers, for such papers as were in his custody, which were conducible to the business and service of that court, and Mr. Brown was required to send the said papers accordingly.

Then they appointed the Colonels Horton Dean, Okey, Huson, Roe, Titchbourne, Whaley, Tomlinson, Goff, Ewers and Scroope, as also Love, Scot, Millington, Challoner and Danvers, or any three of them to be a committee to take the examinations of the witnesses; while the court sat in private in the Painted Chamber, where there appeared no more than thirty-two of them, having nothing of moment before them, and so we shall not give their names.

The first witness that was examined was John Cuthberd, of Padington in Holderness, aged forty-two.

He deposed, that living at Hull-Bridge near Beverley, in July 1642, he did then hear what forces were raised, about three thousand foot for the king's guard, under Sir Robert Strickland; and further said, that about the 2d of July, 1642, he saw a troop of horse come to Beverley, about four or five in the afternoon, called the Prince's troop, Mr. James Nelthorp being then mayor of the town; that he did see that afternoon the said troop march out from Beverley into Holderness, where they received ammunition brought up to them by the Humber; that the same night there came about three hundred foot, said to be Sir Robert Strickland's regiment, the same Sunday at night, under the command of Lieutenant-Colonel Duncombe and called the king's guard, to this deponent's house, called Hull-Bridge, near Beverley, about midnight, broke open, entered and possessed themselves of the said house; and that the Earls of Newport and Carnarvon, with divers others, came that night thither to the said forces; and that the same night, as the deponent was then informed, Sir Thomas Gower, then high-sheriff of the said county, came thither, and left there a warrant for stopping all provision from going to Hull, to Sir John Hotham, which warrant was delivered there to this deponent, being constable, by Lieutenant-Colonel Duncombe. That he was by the said forces put out of his house, and with his family went to Beverley, and that the Thursday following, to his best remembrance, he saw the king come to Beverley, to the Lady Gee's house, where he often saw him with Prince Charles, and the Duke of York, and that the trained bands were then raised in Holderness, as generally reported, by the king's command.

Farther, that the night before the said forces possessed themselves

of this deponent's house, Colonel Legard's house was plundered by them; that after the said troops had left Hull-Bridge, where they had continued about ten days, Colonel Wyvell, with about seven hundred foot came to quarter at Hull-Bridge, and that the warrant he then produced to the court, was the original warrant: lastly, that the general's name of the said forces was the Earl of Lindsey; and that this deponent was brought before him, the said general, for holding intelligence with Sir John Hotham, then governor of Hull; and because that that general had been informed the deponent had corn to send into Ireland, he was forbid, without the king's direction, to send it thither, or any where else.

The next witness was John Bennet, of Harwood in Yorkshire, glover, who swore,

He was a soldier under the king, when he set up his standard at Nottingham, and that he saw the king there in the castle; that the regiment wherein he was had their colours given them; that the Earl of Lindsey was then proclaimed general, and that proclamation was made at the head of every regiment, that they should fight against all that opposed the king, and his followers, particularly against the Earl of Essex, and Lord Brook, who with divers others were then proclaimed traitors.

He farther said, that he took up arms under the king for fear of being plundered; Sir William Penymen giving out, that it were a good deed to fire that town, because they would not take service; and that the deponent's father commanded him to take up arms, and so did divers others for fear of being plundered; that he saw the king, in or about October, 1642, at Edge-Hill, on horseback, where he spoke to the colonel of every regiment as they marched by, to encourage the soldiers to fight against Essex, Brook, Waller, and Balfour; that he saw many slain at Edge-Hill, and a list brought to Oxford of the slain, who were reported to be six thousand five hundred and fifty-nine: that the November following, he saw the king at the head of his army on Hounslow-Heath, and Prince Rupert standing by him, and did encourage several Welch regiments, who ran away at Edge-Hill, saying, that he did hope they would regain their honour at Brentford, which they had lost at Edge-Hill.

Another evidence was Henry Hartford, of Stratford-upon-Avon, in Warwickshire, who swore,

That about corn-harvest, in 1642, he saw the king at Nottingham while the standard was set up; and that about November the same year he saw him at Brentford on horseback, on a Sunday morning; when the night before many of the parliament's forces had been slain by those of the king's in the said town.

The next was Edward Roberts, of Bishops-Castle, ironmonger, who deposed much the same thing,

That he saw the king at the head of the army at Shrewsbury, upon the march towards Edge-Hill, likewise in the rear at Keynton-Field, and the Sunday morning at Brentford.

The felt-maker, Samuel Morgan, of Wellington, in Shropshire, swore,

He saw the king in Keynton-Field, some hours before the battle, which happened on Sunday, 1642, and saw many men killed on both sides; farther, that in 1644, he saw the king in his army near Cropdy-Bridge, and draw them up in person.

Samuel Lawson, the maltster, of Nottingham,

Swore to the setting up of the standard there, borne by divers gentlemen, who carried it up the hill with a herald before, and erected it with great acclamations, the king present: that the said town was then full of the king's soldiers, of which some quartered in his house; that when they marched away, the town was forced to pay a great sum to his army, which, if they refused, they threatened to plunder it.

Arthur Young, was a barber-surgeon, of London, who swore,

He was at Hedge-Hill fight, saw the king's standard advance, which he took in battle from the king's forces, but it was afterwards taken from him by one Middleton, afterwards made a colonel.

Richard Blomfield, a London weaver,

Swore that at the defeat of Essex's army in Cornwall, in August or September, 1644, he was there, and saw the king on horseback at the head of his army near Foy, and divers of Essex's soldiers plundered, contrary to the articles near the king's person.

Humphry Brown, a Rutlandshire husbandman,

Swore that when Newark-Fort, in Leicestershire, was surrendered to the king, upon articles that the garrison should not be stripped nor plundered, it was no sooner done, but they were stripped, cut and wounded; and when one of the king's officers rebuked the soldiers for abusing the garrison, he heard the king say, I do not care if they cut them three times more, for they are my enemies, or words to that effect.

Evans, a smith, of Abergavenny, in Monmouthshire,

Swore that in June, 1645, he saw the king march at the head of his army to the battle of Naseby.

Diogenes Edwards, a Salopian butcher,

Swore much the same thing, and that he saw many slain in the said battle.

George Seely, a London shoemaker,

Swore to the king's being at the siege of Gloucester, and at the first and second fights of Newberry, in 1643 and 1644, and to the slaughter of men on both sides.

The oath of John Moor of Cork, in Ireland,

Was to the king's being present at the last battle of Newberry in

1644, and to the slaughter made on both sides; that he also saw him ride into Leicester the day it was taken by his forces; at Cropedy Bridge, before the fight of Leicester, in the midst of a regiment of horse, and many slain at the same time; and lastly, at the head of a regiment of horse at Naseby, in 1645, where he saw abundance of men cut, shot, and slain.

Thomas Ives of Boyset, in Northamptonshire, husbandman,

Deposed to the king's being present at the first battle of Newbery, and to the slaughter of a great many persons there; as also at the fight of Naseby, where he saw him come off with a party of horse after the rout, and that there were many slain on both sides.

Henry Gooch, a gentleman of Gray's-Inn,

Deposed, that he was in the Isle of Wight, and had access to the king by the means of the Marquess of Hertford and Commissary Morgan; where he told him he had many friends; and that since his Majesty was pleased to justify the parliament's first taking up arms, most of the Presbyterian party, both soldiers and others, would stick close to him; to which the king answered thus: that he would have all his old friends know, that for the present he was contented to give the parliament leave to call their own war what they pleased, yet that he neither did at that time, nor ever should decline the justice of his own cause; that he told the king his business was much retarded, and that neither Colonel Thomas nor any other could proceed to action, through want of commissions.

That the king answered, that he being upon a treaty, would not dishonour himself; but that if the deponent would take the pains to go over to the prince his son, who had still authority from him, he or any from him could receive what commissions they desired, and that he would appoint the Marquess of Hertford to write to his son in his name, and was pleased to express much joy and affection that his good subjects would engage themselves for his restoration.

Robert Williams, a Cornish husbandman,

Deposed, he saw the king march at the head of his army, about September, 1644, a mile from Lestwithiel in Cornwall, in armour, with a short coat over it unbuttoned; after that at St. Austel-Downs, drawing up his army; and lastly, with his army near Foy, and that the Earl of Essex and his forces lay within a mile and a half of the king's army.

The witnesses being thus examined, the court adjourned for an hour, and met again in the afternoon.

The next witness was Richard Price of London, scrivener,

Who deposed, that upon occasion of some tampering by the king's agents with the independents in and about London, to draw them to the king's party, some having discovered this to several members of the committee of safety, they directed a carrying on of a

seeming compliance with the king. The deponent went to Oxford in 1643, having a safe conduct from the king, under his hand and seal, which the king afterwards owned; and after several meetings between him and the Earl of Bristol, the substance of whose discourse the earl said he had communicated to the king, the earl brought him to the king, who declared he was very sensible the Independents had been the most active men in the kingdom for the parliament, against him; and he persuaded the deponent to use all means to bring them over, promising on the word of a king, if they would come and be active for him against the parliament, as they had been against him, he would grant them what freedom they desired. And the king thereupon referring the deponent to the Earl of Bristol, the earl desired him to impart the same to the Independents. He added, that the king's affairs prospered well in Ireland; that the Irish had given the rebels (meaning the parliamentarians) a great defeat; that the king had sent the Lord Byron with a small party towards Cheshire, and he was greatly multiplied, and had a considerable army, and was then before Nantwich, and would be reinforced with more soldiers from Ireland, which were to come and were expected daily.

Lastly, that upon the deponent's departure from Oxford, he had four safe conducts with blanks given him under the king's hand and seal, for inserting such names as he pleased; and one Ogle was sent with him, to treat about the giving up of Aylesbury, then garrisoned by the parliament, to the king.

Then several papers and letters of the king's own writing, and under his hand, and other papers, were read openly; after which the court sat private, and taking into consideration the whole matter of the charge against the king, passed these votes as preparatory to his sentence, but yet not to be finally binding to conclude the court. That the court would proceed to sentence of condemnation against Charles Stewart, King of England; "that the condemnation should be for a tyrant, traitor, and murderer; that the condemnation should be likewise for being a public enemy to the commonwealth of England, and that this condemnation should extend to death."

The last mentioned commissioners were present at these votes; after which a motion was made concerning the deposition and deprivation of the king in order that it might come before that part of the sentence which concerned his execution; but the consideration thereof was deferred to some other time, and a draught of a sentence grounded upon the said votes was ordered to be prepared by Scot, Harrison, Martin, Lisle, Say, Ireton, and Love, or any three of them, with a blank for the manner of his death.

Then the absent members being ordered to be summoned to attend next day at one in the afternoon, the court adjourned to that time.

Their names were called, and these following were present :—

JOHN BRADSHAW, PRESIDENT.

Oliver Cromwell	Robert Titchbourn	Humphrey Edwards
Henry Ireton	Owen Roe	Thomas Wogan
Sir Hardress Waller	Adrian Scroop	Sir Gregory Norton
Valentine Walton	John Dixwell	John Dove
Thomas Harrison	Simon Mayne	John Venn
Edward Whaley	Peter Temple	William Cawley
Thomas Pride	Thomas Waite	Anthony Stapley
Isaac Ewers	Cornelius Holland	John Downs
Thomas Lord Grey of Groby	Thomas Scot	Thomas Horton
Sir John Danvers	Francis Allen	Thomas Hammond
Sir Henry Mildmay	Richard Dean	John Lisle
William Heveningham	Nicholas Love	Nicholas Love
Henry Martin	John Okey	Augustine Garland
William Purefoy	John Carew	George Fleetwood
John Blackistone	John Jones	James Temple
Gilbert Millington	Miles Corbet	Daniel Blagrove
Sir William Constable	William Goff	John Brown
Edmond Ludlow	Peregrine Pelham	Henry Smyth
John Hutchinson	John Moor	John Berkstead
Sir Michael Livesay	William Lord Mounson	Sir Thomas Maleverer
		Vincent Potter.

Here the court sat private, and the draught of the king's sentence being read before them, after several readings, debates, and amendments, they resolved to agree to it, ordered it to be engrossed, and that the king should next day be brought to Westminster to receive his sentence.

They met in the Painted Chamber, according to their adjournment on the 27th, where were present sixty-eight of them, of whom John Brownly and Thomas Challoner were two; the rest were the same that adjourned afterwards into the hall, only Isaac Pennington was not among the former. Having agreed that the sentence should be read that day in Westminster-hall, it was ordered that the president should address the king according to his discretion, with the advice of his two assistants, and that in case the king persisted to except against the court's jurisdiction, to let him know that the court did still affirm their jurisdiction; that in case he should submit to the jurisdiction of the court, and pray a copy of the charge, that the court was to withdraw

and advise ; that if the king should move any thing else worth the court's consideration, the president, upon advice of his assistants, should order the court's withdrawing to advise ; and that in case the king should not submit to answer, and there happened no such cause of withdrawing, the president should command the sentence to be read, but should hear the king say what he would before the sentence, and not after.

The president was left to his liberty as to the using any discourse or speeches to the king, as in the case of other prisoners to be condemned ; and it was further directed, that after reading the sentence, the president should declare that the same was the sentence, judgment, and resolution of the whole court, and that the commissioners should thereupon signify their consent by standing up ; then they adjourned into Westminster-hall, and the judges there present were sixty-eight.

The king came into the court in his wonted posture, with his hat on.

King.—I desire a word, to be heard a little, and I hope I shall give no occasion of interruption.

Bradshaw.—You may answer in your time ; hear the court first.

King.—If it please you, Sir, I desire to be heard, and I shall not give any occasion of interruption, and it is only in a word. A sudden judgment—

Bradshaw.—Sir, you shall be heard in due time, but you are to hear the court first.

King.—Sir, I desire it ; it will be in order to what I believe the court will say ; and therefore, Sir—A hasty judgment is not so soon recalled.

Bradshaw.—Sir, you shall be heard before the judgment is given ; and in the meantime you must forbear.

King.—Well, Sir, shall I be heard before the judgment be given ?

Bradshaw.—Gentlemen, it is well known to all here present, that the prisoner at the bar hath been several times convented, and brought before this court, to make answer to a charge of high treason, and other crimes exhibited against him in the name of the people of England ; to which charge being required to answer, he hath been so far from obeying the commands of the court, by submitting to their justice, that he began to take upon him reasoning and debating upon the authority of the court appointed to try and judge him ; but being overruled in that, and required to make his answer, he still continued contumacious, and refused to submit to an answer. Hereupon the court, that they may not be wanting to themselves nor the trust reposed in them, nor that any man's wilfulness prevent justice, have considered of the charge, and of the contumacy, and of that confession which in law doth arise on that contumacy ; they have also considered the notoriety of the fact

charged upon this prisoner; and upon the whole matter, they are resolved, and have agreed upon a sentence to be pronounced against him; but in respect he doth desire to be heard before sentence be pronounced against him, the court doth resolve to hear him. Yet Sir, this I must tell you beforehand, which you have been minded of at other courts, if that which you have to say be to offer any debate concerning their jurisdiction, you are not to be heard in it. You have offered it formerly, and you have struck at the root, that is, the power and supreme authority of the Commons of England, which this court will not admit a debate of, and which, indeed, is an irrational thing in them to do, being a court that acts upon authority derived from them. But, Sir, if you have any thing to say in defence of yourself concerning the matter charged, the court has commanded me to hear you.

King.—Since I see that you will not hear any thing of debate, concerning that which I confess I thought most material for the peace of the kingdom and for the liberty of the subject, I shall waive it; but only I must tell you, that this many a day all things have been taken away from me, but that I call dearer to me than my life, which is my conscience and my honour; and if I had respect to my life more than the peace of the kingdom and the liberty of the subject, certainly I should have made a particular defence for my life; for by that at least I might have delayed an unpleasant sentence, which I believe will pass upon me; therefore, certainly, Sir, as a man that hath some understanding, some knowledge of the world, if that true zeal to my country had not overborne the care that I have for my own preservation, I should have gone another way to work than that I have done. Now, Sir, I conceive that a hasty sentence once passed may sooner be repented of than recalled; and truly the self same desire that I have for the peace of the kingdom and the liberty of the subject, more than my own particular ends, makes me now at last desire that I may say something that concerns both. I desire, that before sentence be given, that I may be heard in the Painted-Chamber, before the lords and commons. This delay cannot be prejudicial to you, whatsoever I say; if that I say be no reason, those that hear must be judges. I cannot be judge of that which I have to say. If it be reason, and really for the welfare of the kingdom and the liberty of the subject, I am sure it is very well worth the hearing. Therefore I do conjure you, as you love that which you pretend, (I hope it is the liberty of the subject and peace of the kingdom) that you will grant me this hearing, before any sentence passeth; but if I cannot get this liberty, I do protest that your fair shews of liberty and peace are pure shews, and that you will not hear your king.

Bradshaw.—Sir, you have spoken.

King.—Yes, Sir.

Bradshaw.—And this that you have said is a further declining the jurisdiction of the court, which was the thing wherein you were limited before.

King.—Pray excuse me, Sir, for my interruption, for you mistake me. It is not declining of it, you do judge me before you hear me speak; though I cannot acknowledge the jurisdiction of the court,

yet, Sir, in this give me leave to say, I would do it, though I did not acknowledge it. In this I do protest it is not the declining of it, since I say, if that I do say any thing but what is for the peace of the kingdom and the liberty of the subject, then the shame is mine.

Bradshaw.—Sir, this is not altogether new that you have moved to us; though the first time in person you offered it to the court, Sir, you say you do not decline the jurisdiction of the court.

King.—Not in this that I have said.

Bradshaw.—I understand you well, Sir, but nevertheless that which you have offered seems to be contrary to that saying of yours; for the court are ready to give sentence: it is not as you say, that they will not hear their king; for they have been ready to hear you, they have patiently waited your pleasure, for three court days together, to hear what you would say to the people's charge against you: to which you have not vouchsafed to give any answer at all. Sir, this tends to a further delay, truly, Sir, such delays as these, neither magistrates nor justice will bear. You have had three several days to have offered in this kind what you would have pleased: this court is founded upon that authority of the Commons of England, in whom rests the supreme jurisdiction: that which you now tender is to have another jurisdiction, a co-ordinate jurisdiction. I know very well you express yourself, Sir, that notwithstanding what you would offer to the Lords and Commons in the Painted Chamber, yet nevertheless you would proceed on here; I did hear you say so. But, Sir, that which you would offer there, whatever it is, must needs be in delay of justice here; and since this court has resolved and is prepared for the sentence, this that you offer they are not bound to grant. But, Sir, according to that which you seem to desire, and because you shall know the further pleasure of the court upon that which you have moved, the court will withdraw for a time.

King.—Shall I withdraw?

Bradshaw.—You shall know the pleasure of the court presently.

The serjeant having taken his majesty away, the judges withdrew into the Court of Wards.

Being returned to the hall and the king sent for,

Bradshaw.—Sir, you were pleased to make a motion here to the court, to offer a desire of yours, touching the proposing somewhat to the Lords and Commons in the Painted Chamber for the peace of the kingdom: Sir, you did in effect receive an answer before the court adjourned. Truly, Sir, our withdrawing and adjournment was *pro forma tantum*, for it did not seem to them that there was any difficulty in the thing: they have considered of what you have moved, and have considered their own authority, which is founded, as has been often said, upon the supreme authority of the Commons of England, assembled in parliament: the court acts according to their commission. Sir, the return I have to you from the court is this, that they have been too much delayed by you already, and this that you now offer has occasioned some little further delay; and they are judges appointed by the highest authority, and judges are

no more to delay than they are to deny justice; they are good words in the great old charter of England, *nulli negabimus, nulli vendemus, nulli deferemus justitiam*: there must be no delay: but the truth is, Sir, and every man here observes it, that you have much delayed them in your contempt and default, for which they might long since have proceeded to judgment against you, and notwithstanding what you have offered, they are resolved to proceed to sentence and to judgment, and that is their unanimous resolution.

King.—Sir, I know it is in vain for me to dispute, I am no sceptic to deny the power that you have, I know you have power enough; but, I must confess, I think it would have been for the kingdom's peace, if you would have taken the pains to have shewn the lawfulness of your power.

For this delay that I have desired, I confess it is a delay, but it is a delay very important for the peace of the kingdom, for it is not my person that I look at alone, it is the kingdom's welfare and the kingdom's peace.

It is an old sentence, that we should think on long before we resolve on great matters: therefore, Sir, I do say again, that I do put at your doors all the inconveniency of a hasty sentence. I confess I have been here now, I think, this week; this day eight days was the day I came here first: but as the delay of a day or two farther, may give peace; whereas a hasty judgment may bring on that trouble, and perpetual inconvenience to the kingdom, that the child that is unborn may repent it: and therefore again, out of the duty I own to God and to my country, I do desire I may be heard by the Lords and Commons in the Painted Chamber, or any other chamber that you will appoint me.

Bradshaw.—You have been already answered to what you even now moved, being the same you moved before since the resolution and judgment of the court in it, and the court now requires to know whether you have any more to say for yourself than you have said, before they proceed to sentence.

King.—I say thus far, that if you hear me, that if you will give me this delay, I doubt not but I shall give some satisfaction to you all here, and to my people after that; and therefore I require you, as you will answer it at the dreadful day of judgment, that you will consider it once again.

Bradshaw.—I have received direction from the court.

King.—Well, Sir.

Bradshaw.—If this must be reinforced, or any thing of this nature, your answer must be the same, they will proceed to sentence, if you have nothing more to say.

King.—I have nothing more to say, but I shall desire that this may be entered which I have said.

Bradshaw.—The court then, Sir, has something to say to you, which though I know it will be very unacceptable, yet they are willing, and resolved to discharge their duty.

King.—I desire only one word before you give sentence, and that is, that you would hear me concerning these great imputations that you have laid to my charge.

Bradshaw.—Sir, you must now give me leave to go on, for I am not far from your sentence and your time is now past.

King.—But I shall desire you will hear me a few words to you; for truly whatever sentence you will pass upon me, in respect of those heavy imputations that I see by your speech you have put upon me; Sir, it is very true that ———

Bradshaw.—Sir, I must put you in mind,—truly, Sir, I would not willingly at this time especially interrupt you in any thing that you have to say, that is proper for us to admit of; but, Sir, you have not owned us as a court, and you look upon us as a sort of people met together, and we know what language we receive from your party.

King.—I know nothing of that.

Bradshaw.—You disavow us as a court, and therefore for you to address yourself to us, not acknowledging us as a court to judge of what you say, is not to be permitted; and the truth is, all along from the first time, you were pleased to disavow and disown us, the court needed not to have heard you; for unless they be acknowledged a court, and engaged, it is not proper for you to speak; Sir, we have given you too much liberty already, and admitted of too much delay, and we may not admit of any further: were it proper for us to do so, we should hear you freely, and we should not have declined to have heard you at large, what you could have said and proved on your behalf; whether for totally excusing, or for in part excusing those great and heinous charges, that in whole or in part are laid upon you: but, Sir, I shall trouble you no longer, your sins are of so large a dimension, that if you do but seriously think of them, they will drive you to a sad consideration; and they may improve in you a sad and serious repentance. And that the court does heartily wish, that you may be so penitent for what you have done amiss, that God may have mercy at least on your better part. Truly, Sir, for the other, it is our parts and duties to do that which the law prescribes: we are not here *Jus Dare*, but *Jus Dicere*; we cannot be unmindful of what the Scripture tells us; “For to acquit the guilty is of equal abomination as to condemn the innocent:” we may not acquit the guilty, what sentence the law affirms to a tyrant, traitor, and murderer, and a public enemy to the country; that sentence you are now to hear read to you, and that is the sentence of the court.

Proclamation for silence being made, Broughton, the clerk, read the sentence drawn up on parchment.

Whereas the Commons of England, in parliament assembled, had appointed them a high court of Justice, for the trial of Charles Stewart, King of England, before whom he had been three times convened, and at the first time a charge of high treason, and other crimes and misdemeanors, was read in the behalf of the kingdom of England.

[Here the charge was repeated.]

Which charge being read to him as aforesaid, he the said Charles Stewart was required to give his answer, but he refused so to do.

[Expressing the several passages of his refusing in the former proceedings.]

For all which treasons and crimes, this court doth adjudge, that he the said Charles Stewart, as a tyrant, traitor, murtherer, and public enemy, shall be put to death by severing his head from his body.

After the sentence was read, Bradshaw said,

This sentence now read and published, is the act, sentence, judgment and resolution of the whole court, and then the whole court stood up, as assenting to what Bradshaw said.

King.—Will you hear me a word, Sir?

Bradshaw.—Sir, you are not to be heard after the sentence.

King.—No, Sir!

Bradshaw.—No, Sir, by your favour, Sir. Guard, withdraw your prisoner.

King.—I may speak after sentence by your favour, Sir, I may speak after sentence ever.

By your favour hold. The sentence, Sir, I say, Sir, I do, I am not suffered to speak, expect what justice other people will have.

The court, after judgment given, went into the Painted-Chamber, and appointed Sir Hardress Waller, Ireton, Harrison, Dean and Okey, to consider of the time and place for the execution.

The king was taken by the guards to Sir Robert Cotton's house, and as he passed down stairs, the rude soldiers scoffed at him, blew the smoke of their tobacco in his face (a thing always very offensive to him) strewed pieces of pipes in his way, and one, more insolent than the rest, spit in his face, which his majesty patiently wiped off, taking no farther notice of it: and as he passed farther, hearing some of them cry out, Justice, justice, and execution, he said, "Alas! poor souls, for a piece of money, they would do as much for their commanders." Afterwards the king hearing that his execution was determined to be the next day, before his palace at Whitehall, he sent an officer in the army to desire them, that he might see his children before his death, and that Dr. Juxon, Bishop of London, might be permitted to assist him in his private devotions, and receiving the sacrament, both which were granted to him upon a motion to the parliament.

Next day being Sunday, he was attended by a guard to St. James's, where the bishop preached before him upon these words: 'In the day when God shall judge

the secrets of all men by Jesus Christ, according to my gospel.'

The same day that the warrant was signed for his execution, the Duke of Gloucester, and the Lady Elizabeth, were brought to him, whom he received with great joy and satisfaction, and giving his blessing to the princess, he bade her remember to tell her brother James, that he should no more look upon Charles as his elder brother only, but as his sovereign, and that they should love one another, and forgive their father's enemies. Then taking the Duke of Gloucester upon his knee, said, Sweet heart, now they will cut off thy father's head, (at which words the child looked very wishfully upon him). Mark, child, what I say; they will cut off my head, and, perhaps, make thee a king: but mark what I say, you must not be a king so long as your brothers Charles and James are alive; for they will cut off your brothers' heads, as soon as they can catch them, and cut thy head off too at last, and therefore I charge you, do not be made a king by them. At which the child sighing, said, "I will be torn in pieces first."

The warrant for his Majesty's execution was signed on the 29th, and ran thus:—

Whereas, Charles Stewart, king of England, is, and standeth convicted, attainted and condemned of high-treason, and other high crimes, and sentence, upon Saturday last, was pronounced against him by this court, to be put to death, by the severing of his head from his body; of which sentence execution yet remaineth to be done: These are therefore to will and require you to see the said sentence executed in the open street, before Whitehall, upon the morrow, being the 30th day of January, between the hours of ten in the morning and five in the afternoon of the same day, with full effect, and for so doing this shall be your sufficient warrant, and these are to require all officers, soldiers, and others the good people of this nation of England, to be assisting unto you in this service.

To Colonel Francis Hacker, Colonel Huncks and Lieutenant-Colonel Phory, and to every of them.

Given under our hands and seals, sealed and subscribed by

John Bradshaw	Henry Ireton	John Huson
Thomas Grey	Tho. Maleverer	Henry Smith
Oliver Cromwell	John Blackiston	Peregrine Pelham
Edward Whaley	John Hutchinson	Simon Meyne
Michael Livesay	William Goffe	Thomas Horton
John Okey	Thomas Pride	John Jones
John Peters	Peter Temple	John More
John Bouchier	Thomas Harrison	Hardress Waller



C H A R L E S I.



Engraved by W. & A. Stackley, 357 Strand

Gilbert Millington
John Alured
Robert Lilburn
William Say
Anthony Stapeley
Richard Dean
Robert Titchburn
Humphry Edwards
Daniel Blagrove
Owen Roe
William Purefoy
Adrian Scroope

James Temple
Augustine Garland
Edmond Ludlow
Henry Martin
Vincent Potter
William Constable
Richard Ingoldsby
William Cawley
John Barkstead
Isaac Ewers
John Dixwell

Valentine Walton
Gregory Norton
Thomas Challoner
Thomas Wogan
John Ven
Gregory Clement
John Downs
Thomas Temple
Thomas Scot
John Carew
Miles Corbet.

On the next day, being the 30th of January, the Bishop of London read divine service in his presence, and the 27th of St. Matthew, the history of our Saviour's passion, being appointed by the church for that day, he gave the bishop thanks for his seasonable choice of the lesson; but the bishop acquainting him that it was the service of the day, it comforted him exceedingly, and then he proceeded to receive the holy sacrament. His devotions being ended, he was brought from St. James's to Whitehall, by a regiment of foot, part before, and part behind, with a private guard of partisans about him, the Bishop of London on the one hand, and Colonel Tomlinson, who had the charge of him, on the other, bareheaded. The guards marched at a slow pace, the king bade them go faster, saying, that he now went before them to strive for an heavenly crown, with less solicitude than he had often encouraged his soldiers to fight for an earthly diadem. Being come to the end of the park, he went up the stairs leading to the long gallery in Whitehall, where formerly he used to lodge, and there finding an unexpected delay, the scaffold being not ready, he past most of the time in prayer. About twelve o'clock (his Majesty refusing to dine, only ate a bit of bread, and drank a glass of claret) Colonel Hacker, with other officers and soldiers, brought the king, with the bishop, and Colonel Tomlinson, through the banqueting-house, to the scaffold, a passage being made through a window. A strong guard of several regiments of horse and foot, were planted on all sides, which hindered the near approach of the people, and the king being upon the scaffold, chiefly directed his speech to the bishop and Colonel Tomlinson, to this purpose:—

I shall be very little heard of any body else; I shall therefore speak

a word to you here: Indeed, I could have held my peace well, if I did not think that holding my peace would make some men think that I did submit to the guilt, as well as the punishment; but I think it is my duty to God first, and then to my country, to clear myself, both as an honest man, a good king, and a good Christian. I shall begin first with my innocence, and, in troth, I think it not very needful to insist long upon this; for all the world knows, that I did never begin a war with the two houses of parliament, and I call God to witness, unto whom I must shortly make an account, that I did never intend to encroach upon their privileges; they began upon me. It is the militia they began upon; they confessed the militia was mine, but they thought fit to have it from me: And, to be short, if any body will look to the dates of commissions, of their commissions and mine, and likewise to the declaration, he will see clearly, that they began these troubles, and not I. So as for the guilt of these enormous crimes that are laid against me, I hope that God will clear me. I will not, for I am in charity, and God forbid I should lay it upon the two houses of parliament, there is no necessity for either: I hope they are free of this guilt; but I believe, that ill instruments between them and me, have been the cause of all this bloodshed; so that as I find myself clear of this, I hope, and pray God, that they may too: Yet, for all this, God forbid I should be so ill a Christian, as not to say God's judgments are just upon me. Many times he doth pay justice by an unjust sentence—that is ordinary. I will say this, that an unjust sentence that I suffered to take effect, is punished by an unjust sentence upon me: So far I have said, to shew you, that I am an innocent man.

Now, to shew that I am a good Christian, I hope there is a good man [pointing to the bishop] that will bear me witness, that I have been forgiven all the world, and even those in particular that have been the cause of my death; who they are, God knows; I do not desire to know: I pray God forgive them. But this is not all, my charity must go farther; I wish that they may repent. Indeed, they have committed a great sin in that particular. I pray God, with St. Stephen, that it be not laid to their charge; and withal, that they may take the way to the peace of the kingdom; for my charity commands me not only to forgive particular men, but to endeavour to the last gasp, the peace of the kingdom. So, Sirs, I do wish with all my soul (I see there are some here that will carry it farther) the peace of the kingdom. Sirs, I must shew you how you are out of the way, and put you in the way. First, You are out of the way; for certainly all the ways you ever had yet, as far as ever I could find by any thing are wrong. If in the way of conquest, certainly this is an ill way; for conquest, in my opinion, is never just, except there be a good and just cause, either for matter or wrong, or a just title; and then if you go beyond the first quarrel, that makes that unjust at the end that was just at first; for if there be only matter of conquest, then it is a robbery, as a pirate said to Alexander, that he was a great robber, himself was but a petty robber. And so, Sirs, I think for the way that you are in, you are much out of the way. Now, Sirs, to put you in the way, believe it, you shall never go right, nor God will never prosper you, until you give God his due, the king his

due (that is, my successor) and the people their due: I am as much for them as any of you. You must give God his due, by regulating the church (according to the Scripture) which is now out of order; and to set you in a way particularly now, I cannot; but only this, a national synod freely called, freely debating among themselves, must settle this, when every opinion is freely heard. For the king (then turning to a gentleman that touched the axe, he said, hurt not the axe that may hurt me.) Indeed, I will not—the laws of the land will clearly instruct you for that; therefore, because it concerns my own particular, I give you a touch of it. For the people, truly I desire their liberty and freedom as much as any body whosoever; but I must tell you, that their liberty and freedom consists in having government under those laws, by which their lives and their goods may be most their own. It is not in having a share in the government, that is nothing appertaining to them: A subject and a sovereign are clear differing things, and therefore, until you do that, I mean, that you put the people into that liberty, as I say, they will never enjoy themselves.

Sirs, It was for this that now I am come hither, for if I would have given way to an arbitrary course, to have all laws changed, according to the power of the sword, I needed not to have come here; and therefore I tell you, (and I pray God it be not laid to your charge) that I am the martyr of the people. In troth, Sirs, I shall not hold you any longer: I will only say this to you, that I could have desired a little time longer, because I would have a little better digested this I have said, and therefore I hope you will excuse me; I have delivered my conscience, I pray God you take those courses that are the best for the good of the kingdom and your own salvation.

Bishop.—Though your Majesty's affections may be very well known as to religion; yet it may be expected that you should say something thereof for the world's satisfaction.

King.—I thank you heartily, my Lord, for I had almost forgotten it. In troth, Sirs, my conscience in religion, I think, is very well known to all the world, and therefore I declare before you all, that I die a Christian, according to the profession of the Church of England, as I found it left me by my father; and this honest man, I think, will witness it.

Then turning to the officers, he said, Sirs, excuse me for this same: I have a good cause, and I have a gracious God, I will say no more.

Then to Colonel Hacker, he said, take care that they do not put me to pain.

A gentleman coming near the axe, the King said, take heed of the axe, pray take heed of the axe.

Then speaking to the executioner, he said, I shall say but very short prayers, and when I thrust out my hands, let that be your sign.

He then called to the bishop for his night-cap, and having put it on, he said to the executioner, does my hair trouble you? who desired him to put it all under his cap, which the King did accordingly, with the help of the executioner, and the bishop. Then turning to the

executioner, he said, I have a good cause and a righteous God on my side.

Bishop.—There is but one stage more, this stage is turbulent and full of trouble; it is a short one; but you may consider, it will soon carry you from earth to heaven; and there you will find a great deal of cordial joy and happiness.

King.—I go from a corruptible to an incorruptible crown, where no disturbance can be, no disturbance in the world.

Bishop.—You are exchanged from a temporary to an eternal crown—a good exchange.

Then the King said, is my hair well? and took off his cloak and his George, giving his George to the bishop, saying, “remember.” Then he put off his doublet, and being in his waistcoat, he put on his cloak again; then looking upon the block, he said to the executioner, you must set it fast.

Executioner.—It is fast, Sir.

King.—When I put out my hands this way (stretching them out) then do your work. After that having said two or three words to himself, as he stood with hands lift up to heaven, immediately stooping down, he laid his neck upon the block; and then the executioner again putting his hair under his cap, the King, thinking he had been going to strike, said, stay for the sign.

Executioner.—Yes, I will, an’t please your majesty.

Then, after a little pause, the king stretching forth his hands, the executioner, at one blow, severed his head from his body.

After the stroke was given, the body was presently coffined, and covered with a velvet pall, immediately upon which, the bishop, and Mr. Herbert, went with it to the back stairs to have it embalmed. After embalming, his head was sewed on by two surgeons. This done, the royal corpse was wrapt up in lead, covered with a velvet pall, and then was removed to St. James’s. The girdle, or circumscription of capital letters, of lead, put about the king’s coffin, had only these words, KING CHARLES, 1648.

LIEUTENANT-COLONEL JOHN LILBURNE,

FOR HIGH TREASON,

AT GUILDHALL, LONDON, OCTOBER 24, 25, 26,

1649.

THE commissioners being set, and proclamation for silence made; the Lieutenant of the Tower was commanded to bring forth his prisoner.

Cryer. John Lilburne, hold up thy hand.

Col. Lilburne, directing himself to Mr. Keble (the president of the court) desired he might have the privileges of a free-born Englishman, and such as were due to him by birth-right and inheritance, having fought for them. He said he mentioned not this by way of merit, to gain mercy, he scorned it, and asked none, but from the hands of God; he craved but the liberty which St. Paul had, of speaking for himself when he pleaded for his life before the heathen Roman judges; this, he said, he was allowed when he was arraigned before the House of Peers, by the king's special order, the first of May, 1641, for sticking close to the liberties of the nation, being one of those two or three men who first drew their swords in Westminster-Hall, against Col. Lunsford and his associates, when it was thought they designed to cut the throats of the chiefest men in the House of Commons. That being taken in the action at Brentford, by the king's forces, and arraigned as a traitor before the Lord-Chief-Justice Heath at Oxford, for levying war against the king, he was tried by the good old laws of England, with all the fairness and equity imaginable, and permitted to plead to the errors in the indictment, before he pleaded not guilty; and had council freely assigned him to consult and advise with, and help him in point of law as soon as he had pleaded, and before any fact was proved; all which he said was consonant to Sir Edward Coke's judgment, in his third part of his Institutes, chap. of high treason, fol. 29, 34, 137, and 280. That being no professed lawyer, he could not be supposed to understand the forms and niceties of law; and therefore it behoved him to consider (lest he hurried himself into dangers) before he held up his hand.

He complained, that notwithstanding courts of justice ought to be open and free to all people, and no man tried in holes and corners, yet at his entrance the gates were shut and guarded.

He said he had been summoned before a committee of parliament, on much the same pretence he was brought before this court, and there he refused to proceed, till by their special order their doors were thrown wide open; and said if he were not allowed the same privilege here, he should rather die than proceed further; and that they might have no jealousy of his escape, he had engaged to the Lieutenant of the Tower to be his true and faithful prisoner, to come and go back peaceably; and if he should be separated from him by force or accident, to return to him as soon as he had liberty; and he believed the Lieutenant did not scruple it.

Lord Keble. Mr. Lilburne, look behind you, and see whether the door stands open.

He said he was satisfied as to that; but in the next place he said, by the act made for abolishing the Star-Chamber in 1641, all statutes made against *magna charta* were declared to be void; and consequently that of the First of Edw. III. which erected these extraordinary commissions of Oyer and Terminer was repealed, as being against the subject's indubitable right declared in *magna charta*, viz.: that no Englishman should be subjected to any other trial but at the ordinary assizes, sessions or goal-deliveries.

He added, that this was the opinion of the House of Commons (when they were in their purity, and acted in defence of the liberties of the subject) as appeared by the arguments of Mr. Hyde, published in a book, called *Speeches and Passages of Parliament*, from p. 409 to 417, who was commissioned from the then House of Commons to complain of the special commission of Oyer and Terminer, exercised in the five northern counties, as unjust in the foundation, and inconsistent with the liberties granted by *magna charta*; though the frequent insurrections of those counties, in Henry Eighth's time (after the suppression of abbeys) was then an extraordinary reason for erecting that court; and therefore if they were then illegal in those aggravating circumstances and dangers, much more must it be so now, to try him

for words or books only, when there is no insurrection in the kingdom, and the ordinary courts of justice open, in which he had often (since his first commitment seven months ago) sought a legal trial, but could never enjoy that benefit, though he ought, by law and justice, either to have been tried at the first assizes in the county where his pretended crime was committed, or acquitted. Then he went on as follows:—

I never acted in an hostile manner against the present governors; I have been in many battles under their command, and hazarded my life for them, and since I left my command, have lived at home in peace. I was at the Commons door the same day they voted me a traitor, and was offered by Mr. Rigby (who now sits as judge amongst you) very great matters, in the names of some great ones, if I would follow their directions; so that I might easily have avoided the snares of mine enemies, but I thought myself secure in a safe conscience. About five o'clock next morning, two or three hundred armed forces, horse and foot, hauled me out of bed from my wife and children,—not according to the law, as is expressly provided in 1st Edward VI. chap. 12, and 5th and 6th Edward VI. chap. 11, but contrary to all good laws, (though there has been an eight year's war pretended for the laws and liberties of England) carried me through the streets of London in a terror, like an Alger captive, to their main guard at Paul's, and thence with a new and mighty host conducted me, by force of arms, to Whitehall, though (if I had been a traitor) I ought to have been proceeded against by the civil officers, according to the privileges the parliament themselves, in 1641, claimed for the six members, in their own Book of Declarations, p. 36, 37, 76, 77. I was then carried to Derby House, before a company of gentlemen who thought themselves authorized to be a committee or council of state, who, I am sure, had nothing to do with me, for pretended treason; and Mr. John Bradshaw, who had been council for me before the House of Lords, in 1645, against my unjust Star-chamber judges, urged it as illegal, arbitrary, and tyrannical, that the lords in the Star-chamber should order me to be whipped, pillored, &c. for refusing to answer interrogatories against myself; and yet Mr. Bradshaw treads in the same steps, and very seriously asked me questions against myself, and because I refused to answer, committed me for treason in general; and you are sensible generals in law signify nothing.

Judge Jermin.—Mr. Bradshaw is now Lord President of the Council of State in England, and it would become you to style him so.

Lieutenant-Colonel Lilburne.—Though several thousands of my friends, old and young, masters and apprentices, and abundance of the female sex too, jointly petitioned in behalf of myself and three fellow prisoners, that the house would not prejudice us before we were heard, but let us have a legal trial, or at least release us, and they would give any security for our forthcoming, to answer what should be laid to our charge, yet they got nothing but slights, abuses, and scorns,

But that you may see I have a quiet conscience, I again and again offered to choose two of the House of Commons, and let my adversaries choose two more, and refer the difference to them; but instead of that, I had my pockets and chamber searched, to find accusations against me; they took my estate of almost 3000*l.* from me, without any legal process; but I will not name by whose power it was done, at this time especially, because I will avoid provocations as much as I can; but the man is notoriously known who said I was a traitor, and he would secure it from me; and yet for all this, a legal allowance to keep me alive was denied me; for I had never a penny, but was absolutely refused that right which the king always allowed to members committed, who afforded four or five pounds a-week for each of them, notwithstanding they had great estates; and Colonel Long confessed he spent the king 1500*l.* for his part, in provisions. Then many of my old acquaintance have been set to reproach me, and endeavour to take away my life, who have confessed they were instigated by parliament men so to do. I appeal to your consciences, and to all the good people present, if this burthen be not too insupportable to a poor man, that is but dust and ashes.

And therefore, though I ought to be tried in Surry, where the pretended crime was committed, as I am brought before you by a piece of parchment, that neither I nor the lieutenant of the Tower could read,—not as an Englishman, who ought to see and read the authority; and truly, this piece of illegible parchment cannot satisfy my understanding of the legality of my convention. But as I was not able to dispute it, here I am.

And therefore, being brought in this extraordinary manner to this extraordinary place, I desire to hear your extraordinary commission read; for those who now exercise the supreme power at Westminster, have on the 9th of February and the 17th of March last, positively declared and called God to witness, that they will maintain the petition of right; and I would consider the consonancy of your commission to that, and other good old laws of England, and shall then return an answer like a rational and ingenuous man.

To this Mr. Prideaux, Attorney-General, answered,

That the prisoner could not complain the court wanted patience; the liberty of speech he desired, he had fully enjoyed, though it were not pertinent to the matter; that this was not a special commission of Oyer and Terminer, but general, according to the accustomed form, as had been used these five hundred years; that it had been openly read before Mr. Lilburne came, and he hoped my lord would declare it to be according to law, in the ordinary way; that Mr. Lilburne's presentment was found by the grand inquest, who were men of ability, and understood law as well as fact, and averred the commission was free from all exceptions; and that for his crimes being committed in Surry, he said Lilburne best knew what he had been guilty of there, but he was yet ignorant what he was here to be tried for, and desired he might put himself upon his trial.

Colonel Lilburne observed,

That Mr. Attorney, as member of the House, was one of the creators of these judges, and therefore not fit to prosecute him.

Lord Keble.—Mr. Lilburne, we come here to vindicate the liberties and laws, and I must let you know our commission is warrantable by them. As to your apprehension in an hostile manner, the law allows the power of the county to be raised, and the sheriff may take what power he pleases.

Lieutenant-Colonel Lilburne.—Not unless I resist; neither was any sheriff, constable, or civil officer there.

Lord Keble.—They may do it before they see him, as they are informed of the danger of the man. As to the proceeding in the Star-chamber, or those in the North, no one here justifies it; but to tell us to our faces we are created by the attorney-general, is not to be suffered; therefore, behave yourself like a rational man.

Lieutenant-Colonel Lilburne.—With your favour, but one word more.

Judge Jermin.—Mr. Lilburne, pray hear the court. This court is constituted by the supreme and public authority of England; most of us are judges of the law, and sworn to do justice to every man, and that you shall have; and you have received more favour than any man accused of treason ever had. Our commission is founded on the statute of Westminster, 2, which was obtained by the Baron's wars, and purchased by the sword for the liberties and privileges of the subject. You are to answer the charge of opposing the supreme authority now settled in the House of Commons, not newly erected, but revived; for it was so in the Saxons' and Romans' time. Our commission is general; but the grand inquest have found no traitor but Mr. John Lilburne; and the treasons are so dangerous that they call for justice against you; and I require you to put yourself upon your trial, and hear the treasonable offences laid to your charge.

Lieutenant-Colonel Lilburne.—That gentleman says I have had more favour than ever he heard of: Mr. Throgmorton had as much or more, who was impeached of higher treason than I am, and that in the reign of Queen Mary, who was accounted the bloodiest prince that had reigned in England for many hundred years; he was tried in this place, although his judges and prosecutor were bent to take his life, right or wrong; so that it is no extraordinary favour; it is only my right by law. And as I have given good reasons against the legality of a special commission, and suppose yours to be so, I desire all my friends, and all good people present, to take notice that you refuse reading that commission by which you go about to take away my life. And Sir, you require me to hold up my hand at the bar. I have read those laws which are in English, and cannot find the meaning of it, only that it is of a large extent. As for those laws which are in French or Latin, I can neither read nor understand, but conclude the holding up my hand to be a very ticklish point, and that I may throw away my life if I hold up my hand before I know what it means. I desire, therefore, a clear explanation of the signification of it, and then I will give you an answer.

Mr. Broughton.—Hold up your hand, John Lilburne, and hearken to your charge. "Thou standest indicted," &c. [as follows in the second day's proceedings] Art thou guilty or not guilty?

Lieutenant-Colonel Lilburne.—Gentlemen, I desire I may only speak what stands with reason and justice.

Lord Keble.—We shall deal with you according to reason and justice; now in reason you are to plead before you can be heard.

Lieutenant-Colonel Lilburne.—Sir, I am not to answer questions for or against myself.

Another Judge.—Is pleading not guilty accusing of yourself?

Lieutenant-Colonel Lilburne.—I know not what benefit I may lose, according to rules of law, and humbly desire a copy of the indictment, and reasonable time to consult with counsel, if it be but eight or nine days.

Lord Keble.—You are a better judge of the truth than another. If you say Not Guilty, when you have answered, you shall have liberty to make your defence.

Lieutenant-Colonel Lilburne.—Sir, the forms and practical part of the law being locked up in a strange language that I cannot understand, it is hard you should take away my life for my ignorance.

Broughton.—John Lilburne, what sayest thou? Art thou guilty? &c.

Lieutenant-Colonel Lilburne.—But to be entrapped with niceties and forms that cannot be found in English books, is not fair play; therefore I again desire counsel, that I may not lose my life upon forms and punctilios.

Another Judge.—Then you will not plead?

Lieutenant-Colonel Lilburne.—Mr. Bradshaw once promised Duke Hamilton to take no advantage of his ignorance in niceties and forms of law in his pleading: give me the same engagement, and I will plead.

Lord Keble.—You shall have no advantage taken.

Lieutenant-Colonel Lilburne.—Well Sir, then, Not guilty of the treasons in manner and form as laid in that indictment; and now, Sir, I desire counsel.

Broughton.—By whom wilt thou be tried?

Lieutenant-Colonel Lilburne.—By the known laws of England, and a legal jury of my equals. And now, Sir, I again desire counsel.

Lord Keble.—The form is, that you will be tried by God and your country. If you will be tried by law, that is by the rules thereof; it includes being tried by your country.

Lieutenant-Colonel Lilburne.—Then I hope my answer is clear and fair, Sir?

Judge Jermin.—Answering according to that form means no more than this, that God is everywhere, and knows all things; and by your country is as much as to say, by your neighbours and equals.

Lieutenant-Colonel Lilburne.—Sir, under favour, God is not corporally here; but I will be tried in the presence of that God that knows if you are possessed with premeditated malice and design to destroy me, right or wrong, and by my country, that is, by a jury of my equals, according to the good old laws of England.

Lord Keble.—You have done like an Englishman ; and I promise you a jury of good and lawful men.

Lieutenant-Colonel Lilburne.—But the indictment is so very long, that neither I, nor any man, can carry it in our heads ; therefore, that I may make a defence like an Englishman, I desire a copy of the indictment, council to advise with, and subpœna's for my witnesses.

Lord Keble.—If matter of law does arise, upon proof of the fact, you shall have council assigned.

Lieutenant-Colonel Lilburne.—My Lord Strafford was thought a notorious traitor, and he had council assigned besides, Sir—my estate being gone, I cannot send after them, so desire I may have council and solicitors too.

Lord Keble.—You cannot be allowed council for fact in treason, but must plead it yourself.

Lieutenant-Colonel Lilburne.—If I proceed farther I know not what benefit I may lose, therefore if you will not assign me council to advise with before I am ensnared, order me to be knocked on the head without further trial.

Judge Jermin.—My Lord Strafford was tried by impeachment, and his attainder by act of parliament ; but till matter of law does arise, the court is of council for you.

Lieutenant-Colonel Lilburne.—Sir, my life is at stake ; and (as I told you) it was allowed me at Oxford, and their commission was (I am sure in law) as legal, and just as yours ; and my Lord Chief Justice Heath as legal a judge as any of you.

Lord Keble.—Your life is, by law, as dear as ours, and our souls are at stake if we do you any wrong.

Lieutenant-Colonel Lilburne.—I wish you take notice of that : but I desire the same privilege from you (the nation's pretended friends) I had at Oxford from its declared pretended enemies ; for I hope you that pretended to be preservators of our liberties will not be more unrighteous than the declared destroyers of them.

Judge Jermin.—We cannot grant council to plead to the matter of fact contained in your books.

Lieutenant-Colonel Lilburne.—My supposed books, Sir : pray do not screw me into hazards and snares.

Lord Keble.—If they are not proved to be yours, you are in no danger.

Lieutenant-Colonel Lilburne.—If you, for whom I fought, wont be as just as the cavaliers against whom I fought, I am resolved here to stand and die upon the true principles of an Englishman.

Judge Nichols.—You had better follow the proceedings of law ; for know this is not Oxford.

Lieutenant-Colonel Lilburne.—I think any legal precedents ought to be imitated ; and besides, I think it unjust to be tried by judges, who have been beating their brains above six months with my adversaries, who (being parliament men) are their creators ; and if I had thought you would have tied me up contrary to your promise, I would have died in this very court before I would have pleaded a word to you ; so murder me ; take my blood if you please.

Lord Keble.—You were advised to forbear reproaches, and act rationally, not break into extravagancies, and bitterness of spirit.

Lieut.-Colonel Lilburne.—I look upon myself as a dead man, for want of council to help my ignorance; and if you will not allow it, I will go no further, if I die for it.

Judge Jermin.—You have transgressed the laws of England by not holding up your hand, which I never before knew an Englishman refuse. We are on our oaths, and will discharge our consciences; and we have told you what the law is, yet you will not be satisfied.

Lieutenant-Colonel Lilburne.—Sir, my prosecutors have had a long time to consult with council, yea, and with yourselves, to contrive tricks and snares to destroy me; and I have had no time for defence against such potent malice: you yourself said the law of God is the law of England; act by that; do as you would be done to.

Another Judge.—The laws of God, of reason, and of the land, are joined in the laws you shall be tried by.

Judge Thorpe.—For my particular part, I never saw your indictment before this time, nor ever was at any consultation about it.

Lieutenant-Colonel Lilburne.—You might have seen the substance many months ago, and most of the judges in England have had meetings with Mr. Solicitor at Serjeant's-Inn about it.

Judge Jermin.—It was requisite (from the importance of the offence) such meetings should be, that it might be grounded as the law directs.

Lieutenant-Colonel Lilburne.—If you are resolved to destroy me by the same prerogative Nebuchadnezzar did Daniel, I am as willing to die as he was to be thrown into the lion's den; it is in vain to make more words.

Lord Keble.—Take care the sparks of your venom do not burst out to declare you guilty without further proof.

Lieutenant Colonel Lilburne.—I know the worst, I can but die; and I have lived not to fear it.

Mr. Attorney-General.—What is consonant to the laws of England neither is, nor will be denied, Mr. Lilburne; but what he now desires, viz. Council, a copy of the indictment, and longer time, is what no one that understands the law ever asked; and if granted to him, ought not to be denied to any man for felony or treason, so there would be no end of criminal trials; and of what dangerous consequence such a precedent may be, I leave your lordship and the court to judge.

My Lords, I desire Mr. Lilburne may be used with all just and legal proceedings, and I desire the same for the commonwealth; and, as Mr. Lilburne has pleaded, that you immediately proceed to trial.

Lieutenant-Colonel Lilburne.—If the law of England be founded upon the laws of God and reason, it is not to lay snares to take away your neighbour's life, as trying me upon forms without help of council must be: besides, Sir, for some of you to reproach me with the name of notorious traitor, when I am as innocent in the eye of

the law (till I am legally convicted) as any of those that call me so : do not blemish me in the ears of the auditors.

Mr. Attorney General.—If Mr. Lilburne be innocent, pray put it to a final issue, and let the world judge.

Lord Keble.—The law of England is the most tender of any in the world: you have been found guilty by twenty-one men, upon their oaths and consciences, yet this is not thought sufficient, but you are to have twelve intelligent men of your neighbourhood to hear all over again before they pass upon your life, and according to the rules of this law we proceed.

Judge Jermin.—And though you say the laws are in another tongue, you have no reason to complain; for we try you by English laws, and proceed in English against you.

Lieutenant-Colonel Lilburne.—Truly, I think it is not just to smooth me into snares by fair promises; and when you have drilled me into destruction, break them: if I had thought you would have denied me council, I would have died before I would have pleaded.

Lord Keble.—You have had time to prepare; you knew of your coming, and knew the fact you have committed.

Lieutenant-Colonel Lilburne.—I was informed corresponding with the prince was my chiefest crime, and prepared my defence to that, not dreaming of an accusation for books only, and then to hang me by a law made after the supposed crime was committed, is not fair.

Lord Keble.—We will give you time to send for your witnesses, and consider of your defence till to-morrow morning seven of the clock.

Lieutenant-Colonel Lilburne.—Some of them are 80 or 100 miles off; how is it possible they should be here to-morrow morning? and some (being parliament-men, and officers of the army) will not come without compulsion, I therefore desire subpoenas.

Lord Keble.—As you knew of your coming long ago, you ought to have brought them with you.

Lieutenant-Colonel Lilburne.—How could I provide for any thing but that I was first imprisoned for? Could I divine? Pray give me but eight days.

Lord Keble.—We will give you no more; the court neither can or will wait on you.

Lieutenant-Colonel Lilburne.—My judgment and conscience tell me it is my right by the law of England, the law of God, and the law of reason.

Lord Keble.—You insinuate to the people as if no one had judgment and conscience but yourself; but I tell you, our consciences, religion, zeal and righteousness are as much as yours.

Lieutenant-Colonel Lilburne.—I shall not make comparisons; I speak as to myself.

Lord Keble.—Mr. Attorney hath made process against you, returnable to-morrow morning seven o'clock, therefore more talk will be loss of time to you. And [speaking aloud to the people] all here are to observe you have had more favour than ever prisoner had; you ought to have been tried presently: but that the world may know with what candour the court proceeds, you have till to-mor-

row morning, which is an extraordinary favour, and the doors are wide open that all the world may know it.

Lieutenant-Colonel Lilburne.—I thank you for the favours already received. [Then he was remanded to the Tower, and the court adjourned.]

October 26.—The court being set, and the prisoner brought to the bar. [Mr. Lilburne's brother being in the bar by him, was ordered out; and only one (Mr. Sprat) allowed to hold his books and papers.]

Lieutenant-Colonel Lilburne.—Besides, what I yesterday alledged for council, I shall mention an unquestionable precedent: when Major Rolfe was indicted for high treason, in conspiring to poison and pistol the late king, the Lord Chief Baron Wilde assigned Mr. Nichols, now a judge amongst you, and Mr. Maynard, as his council, before ever the grand jury received testimony to find the bill. Now, Sir, I am an Englishman, as well as Mr. Rolfe; have been an officer in the parliament army as well as he, and fought for them as heartily as ever he did for his life: I desire, therefore, as there are many errors in the indictment, I may be assigned council, according to this precedent of one of your own fellow judges, and my birth-right.

Lord Keble.—What was then done nothing concerns us; perhaps he confessed the indictment; if you will do so too; it alters the case.

Lieutenant-Colonel Lilburne.—No, Sir, he was saved by the skill and honesty of council Maynard, who (there being two facts, and but one witness to the proof of each) quashed the indictment, as contrary to the Statute of Edward VI.

Lord Keble.—If law arise that you perceive not, the court will help you as well as your council.

Lieut.-Colonel Lilburne.—Sweet, Sir, if you deny me (being upon my life) what the law allows, the Lord deliver me from wanting such counsellors.

Mr. Prideaux.—My Lord, I desire the court would proceed, as he has pleaded and confessed something.

Lieutenant-Colonel Lilburne.—Sir, you abuse me, I have done neither; my plea was conditional; and you have broke your promise; so my innocent blood be upon you.

The jury called.

Lieutenant-Colonel Lilburne.—Sir, some of the grand jury did not find me guilty of treason, and think themselves wronged in what was said yesterday by some of the judges. Pray let them speak.

Lord Keble.—Be silent and hear the court, you cannot be heard.

Lieutenant-Colonel Lilburne.—Then, Sir, before all this people, I make my protest against your unjust and bloody proceedings.

Lord Keble.—When your legal time comes, you may talk till midnight.

Lieutenant-Colonel Lilburne.—It will be too late then.

[Here Mr. Sprat, or Colonel Robert Lilburne, whispered him to challenge one of the jury, and the judge excepted against it.]

Lieutenant-Colonel Lilburne.—Sir, any by-stander may help the prisoner by the law of England.

Lord Keble.—It cannot be granted.

[After the prisoner had challenged two or three, the jury were sworn and charged with the prisoner.]

Mr. Bronghton.—John Lilburne hold up thy hand.

Lieutenant-Colonel Lilburne.—As I did yesterday. I am John Lilburne, freeman, &c.

Lord Keble—Read the indictment.

The indictment set forth—

That the said John Lilburne, late of London, gent. as a false traitor, not having the fear of God before his eyes, &c. intending to disturb the government then happily established, without King or House of Lords, in the way of a commonwealth and free state; and intending to disgrace the commons of England, the supreme authority of the nation, and to bring them into hatred and contempt with the good people of England, did on the first day of October, 1649, in the parish of Mary the Arches, in the ward of Cheap, London, maliciously, advisedly, and traitorously, by writing, and printing and publishing a certain traitorous book, intituled a *Salva Libertate*; and by another traitorous book, intituled An Impeachment of High Treason against Oliver Cromwell and his Son-in-law, Henry Ireton, Esqs. late Members of the late forcibly dissolved House of Commons, presented to public View, by Lieutenant-Colonel John Lilburne, close Prisoner in the Tower of London, for his real true and zealous Affections to the Liberties of this Nation. And a third book, intituled A Hue and Cry after Sir Arthur Haslerig. And by another traitorous book, intituled An Outcry of the young Men and Apprentices of London, or an Inquisition after the lost Fundamental Laws and Liberties of England, directed by way of Letter to the Soldiers in the Army; especially to all those that signed the Solemn Engagement at Newmarket Heath, the 5th of June, 1647, but more especially to the private Soldiers of the General's Regiment of Horse, that helped to plunder and destroy the honest and true hearted Englishmen, traitorously defeated at Burford the 15th of May, 1649. And also by another traitorous book, intituled The Legal Fundamental Liberties of the People of England, revived, asserted and vindicated: Did declare and publish that the government aforesaid was tyrannical, usurped and unlawful; and that the commons assembled in Parliament were not the supreme authority of this nation. [Here the words laid to be treasonable in the said libels are recited, but such of them as were insisted on at the trial, appearing hereafter in the evidence, it is not necessary to insert them here.] And the indictment further charges, that the said John Lilburne (not being an officer, soldier, or member of the army) did also, at the time and place aforesaid, traitorously endeavour to incite a mutiny and rebellion in the army

under General Fairfax; and particularly did endeavour to draw Thomas Lewis, John Skinner, and John Toppe, from their obedience to their superior officers; and did deliver unto the three aforesaid soldiers the said book, intitled *An Outcry of the young Men and Apprentices of London* [containing such and such treasonable expressions, which appear afterwards in the evidence] which said books did also contain divers other traitorous, malicious, and tumultuous expressions (not mentioned in the indictment) and were written and published to the intent to stir up and raise forces against the government aforesaid, in the way of a commonwealth and free estate established, and for the suppression and alteration of the said government, and to stir up mutiny in the army aforesaid, &c. in manifest contempt of the laws of the said commonwealth, and against the form of the statutes, &c.

The jury being charged with the prisoner, he alleged that he pleaded Not Guilty, upon condition he might have as much privilege as Duke Hamilton and others had; and said the indictment appeared defective, both as to matter and form; and therefore he again insisted on having time and council to speak to the errors in the indictment; but the court rejected his demands.

Then Mr. ———, of council for the commonwealth, opened the indictment; and Mr. Prideaux, Attorney-General for the commonwealth, having further enlarged upon and aggravated the charge, proceeded to call his witnesses; and first, to prove the book, intitled the “*Outcry*,” to be the prisoner’s.

Mr. Thomas Newcomb the printer was called, and the book being shewn him, he deposed, that about seven or eight weeks since, Lieutenant-Colonel Lilburne and Captain Jones brought that book to him, and Captain Jones agreed with deponent for the printing of it, and he received the copy from Captain Jones, and that afterwards Mr. Lilburne examined and looked over one proof-sheet, and the deponent’s corrector another, and Captain Jones read the manuscript to the corrector; that the deponent printed only some few impressions of the last sheet of the book; which, with the forms, were taken before he had perfected the sheet; and that he knew not where the former part of the book was done.

Mr. Attorney General.—Mr. Jones read the original, and Mr. Lilburne corrected the copy?

Lieutenant-Colonel Lilburne.—Sir, you abuse me, by endeavouring to make him say more than his conscience dictates; he says I cast my eye upon the copy; I desire to know if I was at his house to give any directions after the copy was taken.

Mr. Attorney General.—That is no thanks to either of you.

John Tooke, John Skinner, Thomas Lewis, John Hawkins and John Merriman sworn.

Tooke deposed, that about seven weeks before, Thomas Lewis,

John Smith, and the deponent, met Lieutenant-Colonel Lilburne in Ivy-lane ; and that Thomas Lewis claiming acquaintance with Mr. Lilburne, Mr. Lilburne asked them to drink, which they did ; and that Mr. Lilburne asked them if they had seen a book called "The Apprentices Out-cry ;" and Thomas Lewis answering no, but had thoughts to buy one ; Mr. Lilburne said he had one in his pocket, and would give it him, which he did, and named a place (which the deponent had forgot) where more were to be sold.

Lieutenant-Colonel Lilburne.—You charge me in the indictment with going amongst the soldiers to seduce them ; now I always endeavoured to avoid meeting them, or discoursing with them ; and desire to know if they did not speak to me first.

Lord Keble.—It is no matter who spoke first, if you gave them the book.

Lewis.—On the sixth of September last, I met Lieutenant-Colonel Lilburne, and asked him how he did, and having told him I knew him formerly, and had visited him in the Tower, he asked me to drink, on which we went to the Red Cross in Newgate-market, and there he asked me if I had heard of a book called "The Out-cry of the Apprentices," and I acknowledging a desire to have one, Mr. Lilburne said he had one given him, and he would give it me ; and on my asking him where I might buy more, he desired me to go to a friend of his in Martin's-lane, (the man's name I have forgot) and tell him Mr. Lilburne was there ; and says he, perhaps where you find that man, you may have more books. And the same book I had from Mr. Lilburne, I delivered to the Lieutenant.

Mr. Attorney General.—What did Mr. Lilburne say to you concerning your pay ?

Lieutenant-Colonel Lilburne.—Sir, do not direct him, leave him to his own conscience and memory.

Lewis.—He said, "You soldiers keep us all in slavery," and asked how was our pay, saying there was money come for us, and ready to be delivered to us.

Skinner deposed, that the beginning of September, the deponent and Mr. Lewis met Mr. Lilburne in Ivy-lane, and that they went to the Red Cross in Newgate-market to drink, (but knew not whether it was Mr. Lilburne or Mr. Lewis that proposed going) that Mr. Lilburne asked Mr. Lewis if he had seen the book called "The Apprentices Out-cry," and told Lewis he had one which was given him, and said he would give it to Lewis, and did so, it was afterwards delivered to the Lieutenant.

Lieutenant.—I delivered it to my Captain.

Captain Merryman. This individual book I delivered to Mr. Secretary Frost, who made me sign it, that I might not be mistaken.

Lieutenant-Colonel Lilburne. My Lord, I desire the witnesses may answer if that be the very book in the indictment ; and if they have examined it with the indictment.

Here Mr. Attorney repeated the evidence to the jury ; and again observed, that Mr. Lilburne was corrector, and read the original copy.

Lieutenant-Colonel Lilburne. They have not answered my

question; I desire the jury will take notice of the question, and that I am denied an answer.

Mr. Attorney General. The next thing charged upon him, is a paper intituled, "Salva Libertate;" I sent to him to come to me about it, but he refused coming with the Lieutenant of the Tower, unless I directed my warrant to bring him.

Lieutenant of the Tower. I sent Mr. Lilburne word, I had orders to carry him to Mr. Attorney's chamber; he came to me and desired a sight of the warrant; and having told him I had none, he answered, I shall not obey a verbal warrant, nor will I go, unless you force me." When I had a warrant, he desired to read it, and to take a copy of it, which he did: about three hours after, he came again to me, and said, "pray receive this, viz. (The Salva Libertate) for I intend not to own that gentleman's power who sent the warrant;" and said he gave it me to shew to Mr. Attorney; and this is the same he delivered to me, and afterwards went very quietly with me to Mr. Attorney's chamber, which is all I can say.

Lord Keble. Mr. Lilburne, is this your hand-writing? Shew it him.

Lieutenant-Colonel Lilburne. I am too old to be snapt in such gins, or caught with fooleries; I will look on none of your papers; prove it.

Lord Keble. Your writing or not writing is nothing; you delivered the book.

Lieutenant-Colonel Lilburne. Sir, I desire to know in what part of the Tower you received this paper, whether the place was in the liberties of London, or county of Middlesex?

Lieutenant of the Tower. It was at the steps by the narrow passage at my garden-end, it is commonly reputed to be in Middlesex, but I know not certainly.

Mr. Attorney General. I must desire the jury to observe, that though Mr. Lilburne does not acknowledge his hand, he implicitly confesseth it.

Lieutenant-Colonel Lilburne. Sir, I deny nothing, and what you can prove, I have a life to justify, but prove it first.

Mr. Attorney General. The next thing he is charged with, is intituled "An Impeachment of High Treason against Oliver Cromwell, &c." I suppose he will not own it, but may be asked the question.

Lieutenant-Colonel Lilburne. I shall answer none of your questions, make your advantage of it.

Thomas Daffern, Richard Landar Marshal, Major Hawksworth, Governor of Warwick-castle, all sworn.

Daffern deposed, that on the 12th of August last, the prisoner gave him a book at Winchester-house, in Southwark, to carry to Colonel Ayres, who was then removed to Warwick-castle, and that he delivered it accordingly.

Landar deposed that he was present; took it from him, and delivered it to the governor.

Hawksworth deposed that he sealed it up with three or four seals, and sent it to Colonel Purefoy.

Colonel Purefoy sworn.

Lieutenant-Colonel Lilburne. I except against his evidence, I am indicted for crimes against the keepers of the liberties of England as they call themselves, and he is one of them, therefore a party, and no witness in law.

Purefoy.—I declare this to be the very individual book I received sealed up from Major Hawksworth, and my hand is at it.

Mr. Attorney observed, that this was proved to be the very same book which Mr. Lilburne delivered Mr. Daffern; and that the next thing he was charged with, was intitled "A Preparative to the Hue and Cry," &c. Mr. Lieutenant of the Tower, I desire you will speak your knowledge.

Lieutenant of the Tower.—My Lord, Mr. Lilburne gave me such a book, and I have such another at home, but I cannot swear either to be the same he gave me.

Mr. Nutleigh and Edward Radney sworn.

Lieutenant-Colonel Lilburne—Pray what are these gentlemen? I never saw either of them before.

Mr. Attorney General.—They are my servants, Mr. Lilburne.

Nutleigh.—The 14th of September last I saw the prisoner deliver this specifical book to Mr. Attorney, and called himself the author of it, the erratas of the printer only excepted.

Lieutenant-Colonel Lilburne.—Let him be asked if the words "which are many" did not follow.

Radney deposed, he saw him deliver the book and owned it, but neither of them remembered the words "which are many" to have been added.

Lieutenant of the Tower.—My Lord, I was present, and the words were, "Here is a book which is mine, which I will own, the erratas or errors of the printer excepted, which are many."

Mr. Attorney General averred, that this was the individual book that Mr. Lilburne gave him, and that there was another in the indictment, intitled "The Legal Fundamental Liberty," &c. which had Mr. Lilburne's name to it, and though he would not own it, he should prove it from his other books, viz. "The Preparative to the Hue and Cry," and "The Salva Libertate;" that "The Preparative" he owned before three witnesses, and that Mr. Lieutenant of the Tower received "The Salva" from his own hands. Read the marginal note, p 2.

Clerk reads.—See my second edition of my book of the 8th of June 1649, intitled "The Legal Fundamental Liberties of the People of England revived and asserted," p. 48, 49, to 63.

Mr. Attorney General.—This book hath Mr. Lilburne's name, and he owns it in his "Hue and Cry," in the margin in the third page.

Clerk reads.—Peruse the quotations in the sixth and eighth pages of my forementioned impeachment of high-treason against Oliver Cromwell, as also the 12th and 15th pages of the second edition of my aforementioned book, dated the 8th of June, 1649, intitled, &c.

Mr. Attorney General. Read the fourth in the body of the book.

Clerk. "See also the second edition of my book of the eighth of June, 1649, intitl'd 'The Legal Fundamental, &c.'"

Mr. Attorney General. Read the 24th page of the "Salva," in his own written hand.

Clerk. "See also the edition, &c. the same as before."

Mr. Attorney General. Read where it is marked.

Clerk. "I have published my plea against the present power, in my second edition, et supra."

Mr. Attorney General. My Lords, he here, in several places, owns the book, viz. "The Legal," &c. to be his; I shall now proceed to shew his words in these books, to make good the charge against him, and begin with the act itself, which makes the fact treason.

Clerk. "Die Lunæ, 14th of May, 1649"—

Lieutenant-Colonel Lilburne. Hold, Sir, first prove that it is an act of parliament.

Mr. Attorney General. My Lords, when an act is published, the court is bound to take notice of it; but we will prove it.

Lieutenant-Colonel Lilburne. Mr. Prideaux, there may be counterfeit statutes as well as money, therefore prove it.

Nutleigh desposed that it was a true copy, which he had examined with the record at Westminster.

Lieutenant-Colonel Lilburne. Is he able to depose that it is a true law in all parts of it; and that it has been proclaimed in every hundred and market-town, according to the old law not yet repealed?

Lord Keble.—Read, clerk.

Clerk reads.—The act the 14th of May, 1649, declaring, that whereas the parliament had abolished kingly government, and resolved that the people should be governed by their own representatives, it was enacted that whoever should maliciously publish by writing, &c. that the said government is tyrannical, usurped or unlawful, and not the supreme authority; or shall plot or endeavour to stir up or raise force against the present government, for subversion thereof, or against the keepers of the liberties of England, or the council of state, or either of them, shall be deemed guilty of high treason: And that whoever, not being an officer or soldier, should endeavour to stir up any mutiny in the army, or withdraw the soldiers, &c. from their obedience, or should invite or aid foreigners to invade England or Ireland, or adhere to them, or counterfeit the great seal, shall be likewise deemed guilty of high treason, and forfeit, &c. provided the offender be prosecuted within a year after the offence committed.

Lieutenant-Colonel Lilburne.—The act which I have, does not agree with that which was read, which I design to make use of by and bye.

Clerk reads.—The people now see their slavery and absolute bondage is like to increase, under the present tyrannical, arbitrary, new erected, robbing government.

Mr. Attorney-General.—See the title page of the last book.

Clerk reads.—Before a legal magistracy, when there shall be one, which now there is not.

Mr. Attorney-General.—See folio the first.

Clerk reads.—The present junto are no parliament, according to

law or reason, but are a company of usurping tyrants and destroyers of your laws, liberties, &c.

Mr. Attorney-General.—Mr. Lilburne is more than a leveller, he endeavours to pull up the laws of England by the roots, for he says there is no magistracy, and if so, I conclude there is no propriety.

Lieutenant-Colonel Lilburne.—Mr. Prideaux, it is not long since you suffered the same aspersion, and were penned down in a black bill to my knowledge; pray who were the greatest rooters, those who endeavoured to prevent the mischief, or those who gave the cause? And your inference is very strange, since propriety is antecedent to magistracy, and first in being; I wish your practices were as consonant thereto as my principles.

Mr. Attorney-General.—Read the second page at the mark.

Clerk reads.—I shall hinder (as much as I am able) all addresses to the usurping tyrants as a parliament, &c.

Mr. Attorney-General.—Read page 2.

Clerk.—Your officers have often styled them no better than a mock parliament, a shadow of a parliament, &c.

Mr. Attorney-General.—Read page 3, at the mark.

Clerk reads.—Misery, poverty, &c. never were so extreme under the most tyrannical of our kings, as under the sepretended friends, &c.

Mr. Attorney-General.—Read page 4.

Clerk reads.—And nothing but the groundless wills of these men of blood rageth and ruleth over us, &c.

Lieutenant-Colonel Lilburne.—Pray, Sir, are those quotations verbatim in the indictment?

Mr. Attorney-General.—No, we say you published those among other clauses and things in the books, and produce no books but those charged in the indictment.—Read pages 68 and 72.

Clerk reads.—That the high court of justice is unlawful, if those who set it up were a legal parliament, which they were not, but a pack of traitorous tyrannical usurpers, &c. and they being no Parliament, the other is no court of justice.

Mr. Attorney-General.—Now read in *The Salva Libertate*, at the mark.

Clerk reads.—That a paper warrant, from any pretended power now visible, was not valid, because Fairfax had broke the magistracy, and set up pretended magistrates, and amongst them the Attorney-General, in opposition to whom I will spend my blood, &c.

Mr. Attorney-General observed, that in these books it was said the present government was a mock power, a tyrannical, usurped and unlawful authority; that they were murderers, thieves and robbers, no parliament, but Thomas Pride's junto, destroyers of the liberties, &c. and he hoped the court and jury were sensible that the proof was clear, as to Mr. Lilburne's publishing those books, which he thought was sufficient without further charge; however he should proceed to prove likewise, that Mr. Lilburne had plotted and contrived to raise forces to subvert the present government, though what had been already said (being declared to the army) was sufficient proof thereof, and ordered the fifth page of his book, intituled "An Impeachment of High Treason," &c. to be read; wherein he says, that he hoped the people would make the scheme in his book, called

"The Agreement of," &c. their final centre for a settlement of peace in the distracted nation, &c. for that in the late wars the King's party were merely selfish, the presbyterians no better, and the present independents only dissembled an interest for the people's liberties, when it was chiefly for themselves, and to set up the false saint and villainous murderer, traitor, &c. Oliver Cromwell, &c.

He then ordered the seventh and eighth pages to be read, where he says, "That the people of London should write to their friends to send two agents from each county, to consider with those agents they themselves should chuse, to settle the principles thereof, that what they concluded on might be as a standard to flock to, and not to side either with the pride and fooleries of the present power, joined with Owen Roe O'Neale, or with the prince's will, unless he or they would acquiesce to those settled principles: and, on those terms, he did not see but they might justly join with the prince, who had a large pretence of right; and believed, if he came in by the hands of Englishmen, and by contract of the said settled principles, three great plagues would be avoided, viz. free quarter, taxes and excise, and the people again live in peace and safety, whereas now under St. Oliver there is nothing but cutting of throats, and a daily increase of bondage and slavery," &c.

Mr. Attorney-General.—Now, my Lord, we shall come to his "Agreement of the People," &c. which strikes at the root of all government.

Lieutenant-Colonel Lilburne.—Pray, Sir, see if it be not licensed; and if so, question the licenser.

Mr. Attorney-General.—We shall question the author; read pages 2 and 3,

Wherein he says, "That the supreme power shall be lodged in the people's representatives, to the number of four hundred persons and no more, the places for and manner of election, with the salary for subsistence, to be settled by the present parliament, who are to act as a parliament till the month of August, 1649, and then end; and the new representatives to commence and sit the first Thursday after, and if this parliament should omit or be hindered from settling such election, that they should be elected at the same places, and in the same manner as usual, and the like number also; but that such persons should not be electors or elected as are excepted in the first, third, and fourth heads of the said book, called The Agreement, &c. and that all laws made or to be made contrary to this agreement should be void."

Mr. Attorney-General.—My Lords, Mr. Lilburne, in this Agreement, regulates the number of the supreme government, orders the time of dissolution of this parliament, and when his own shall meet; and that all laws contrary to this shall be void; and desires in his book before, that this Agreement may be the banner or centre to prosecute the design for destruction of the present government, which is treason; and now, my Lords, we shall proceed to shew the tendency of his "Outcry." Read page 11.

The substance of this is, "That the young men and apprentices of London, &c. are obliged to exert themselves, for their own and the nation's advantage; and neither to address, or suffer the tyrants in power to be addressed or petitioned, but to chuse some of the ablest amongst themselves, who would venture their lives

to oppose the present usurpers; and desires the soldiers (if they have any commiseration) to assist in their redemption from slavery: And that the soldiers, especially those who signed The Solemn Engagement, should chuse two out of each troop and company to correspond and consult with the said young men's friends, for establishing the liberties and freedom of the people."

Mr. Attorney-General.—Read pages 9 and 57.

The substance is, "That they, the young men and apprentices of London, &c. are fully resolved to instigate their fellow-apprentices of the out-parishes to chuse agents likewise, and desire by letter each county in England to do the same; which agents should, with their Burford friends, all meet, to consider the speediest method of chusing a new parliament, according to the said Agreement, seeing the present pretended Parliament only share the public treasure and most beneficial places among themselves, without redressing oppressions, or receiving petitions of complaint; for notwithstanding the many oaths, promises, &c. of the present commonwealth, to maintain the liberties and good of the people, that they are perjured tyrants, &c. and ought to be abhorred by all men."

Mr. Attorney-General observed, that the long forbearance towards Mr. Lilburne's traitorous provocations was sufficient testimony of the state's clemency; and that he could scarcely contain himself to hear such dangerous expressions and insufferable treasons.

Lieutenant-Colonel Lilburne.—The exclamations of people, who are oppressed, is not treason within the old laws of England.

Mr. Attorney-General observed, That to call the parliament tyrants, usurpers, and traitors, and stir up the people to destroy them, might be brought within the statute 25 Edw. III. chap. 2. and that Mr. Lilburne had vilified General Fairfax and his chief officers, and called the Lord General Cromwell, murderer; and that he would prove Mr. Lilburne had endeavoured to draw the soldiers from their obedience, which was high-treason in the last clause of the act. Read the epistle to the legal fundamental, &c.

The substance is, That he positively accused Cromwell for the wilful murder of Mr. Richard Arnold, near Ware.

Mr. Attorney-General observed, that Mr. Arnold was condemned by a council of war, for a mutineer.

Lieutenant-Colonel Lilburne.—It being done in a time of peace, when the courts of justice are open, is contrary to the petition of right; and that the Earl of Strafford (who was as great a general) suffered for such like acts; therefore if the judgment of Strafford or the petition of right be legal, the shooting of Arnold is absolute murder.

Clerk reads.—That Cromwell and his confederates were guilty of most of the crimes (in kind) charged against the late king though under a new denomination.

Mr. Attorney-General—Read pages 35, 37, and 38.

Here he says, that no promises could bind the chief jugglers and leaders of the army: and that he (Lilburne) left the council they had called, esteeming them a pack of dissembling knaves, especially Commissary Ireton; and dared aver that the General and chiefest of the council were fully determined to spend their hearts' blood rather than condescend to the book intitled "Agreement of the People for a just Freedom;" for that a-new and just parliament was more dreadful to

them than the day of judgment; and that neither Korah, Dathan, and Abiram of old, nor the anabaptists, with John of Leyden, and Buperdullion at Munster, nor Jack Straw or Wat Tyler, were comparable to the General and his council for rebellions and treasons against all kinds of magistracy.

Mr. Attorney General.—We shall now proceed to his “Outcry,” directed to the soldiers of the army. Read page 8.

The substance of it is, A grievous complaint of the oppressions the nation now lies under, and a recommendation thereof to the soldiers, especially the private men in the General’s regiment of horse, for that the nation was now not only exposed to domestic broils, but to foreign invasions, from France, Denmark, Sweden, &c. And appeals to the private soldiers of the army for help, and that they would speedily chuse two out of each troop, &c. as before in page 620.

Mr. Attorney General.—Read the second page of his impeachment against Oliver Cromwell, &c.

In which there is an account of his apprehension by soldiers, his being carried to Derby House, and afterwards committed, as Lilburne himself relates in page 584.

Mr. Attorney General.—Read page 3, of his “Outcry,” directed to the soldiers of the General’s regiment.

Here he tells the soldiers, That they assist rather than endeavour to suppress the destroyers of the liberties of the people; that if any one complains, his house is immediately beset with armed janizaries, to take away the people’s courage, and prevent the maintaining their freedoms.

Mr. Attorney General.—My Lords, the last clause of the act is, that if any person, not being an officer, &c. shall endeavour to stir up mutinies in the army, &c. it is high treason; you have heard the calumnies (read in these books) to asperse the officers and stir up the soldiers against them; as likewise the reproachful abuses thrown on the noble General, not to mention the advantage that might be made of the words which have slipped from himself, or more witnesses which I could have called to have proved Mr. Lilburne’s publishing the books, which (though he will not own them) I think is already sufficiently proved against him.

[Here Lilburne compared his behaviour to this court, to that of our Saviour’s before Pilate, who confessed nothing; and added, That, Mr. Prideaux, says it (they are my books) but prove it.]

Mr. Attorney General.—I think here are too many proofs; therefore, gentlemen of the jury, if you have any respect for the present government and council of state, or the preservation of the laws, you will find the prisoner guilty.

Foreman.—We desire the act of treasons to make use of.

Lieutenant Colonel Lilburne objected, that according to the third part of Coke’s Institutes, a man ought to be tried in the county where the treason is committed; that his pretended crimes were laid in three different counties, and that there was but one witness to most of the particular treasons; and therefore he conceived it just, and thought it reasonable they should perform their promise and assign him council. That this and greater privileges were granted to Major Rolfe and Duke Hamilton. That it was impossible for him to give an extempore answer to so long a charge; and besides, that he had

stood five hours wasting his spirits already; and now to stand to answer a five hours' charge, was a burden too heavy for a horse; and he hoped they did not design to hang him because he was tired, and had not strength left to pronounce his defence.

Lord Keble.—The books are but three, which can be no great charge to your memory, neither do we expect the jury should remember the particulars; what you have to do is to acquit yourself first of publishing and owning these books, and then of the matter contained in them; and until this is cleared, we cannot allow you any council.

Lilburne still insisted, that to have council allowed him was his right by law, and no greater privilege than was given Major Rolfe, &c. and said, if he had council, he questioned not (by that means) clearly to acquit himself of the treason alleged against him.

Lord Keble.—Mr. Lilburne, you have often urged this, and have been as often answered; and I shall add, you have in this court so many grave judges, as never man in your condition had.

Lieutenant-Colonel Lilburne.—I am neither daunted at the number of my judges, their glittering robes, the majesty of their presence, or their austere deportment towards me.

Lord Keble.—You are tried thus publicly that all persons may observe the fair play allowed you, and unless you take the matter alleged as proof, you must make your defence to clear the fact, before you shall or can be assigned council.

Lieutenant-Colonel Lilburne.—I hope (as the length of my trial has exhausted my strength) you will not put me to a present answer; I desire a week's time; or (if not so) till to-morrow morning only.

Lord Keble.—No, you must do it presently.

Lieutenant-Colonel Lilburne. Then permit me to recollect myself, and peruse my notes in a private room for an hour, and to refresh my spirits. [Which being refused he added with a mighty voice. Well, if you are resolved to have my blood, right or wrong, I appeal to the Lord God Omnipotent, and a mighty judge between you and me, to require and requit that blood on you and your posterity to the third and fourth generation; [presently after which a scaffold fell, but he continued perusing his papers.] If you will not allow me liberty to withdraw, and ease nature, I desire I may do it in the court.

Then a pot was fetched him, and he had some little time given him to look over his papers in court.

Lord Keble.—Take away his chair; the court cannot wait his motions; speak what you have to say.

Lieutenant-Colonel Lilburne.—I desire to be satisfied whether (a by law allowed) after I have pleaded to matter of fact, you will permit me to speak in my behalf to the jury, on whose integrity my life depends; and who are judges of the law as well as fact, and your only pronouncers of their will.

Lord Keble.—My Lord Coke says the juries are judges of fact, but it is the court's opinion they are not judges of law.

Lieutenant Colonel Lilburne.—You, who call yourselves judges of law, are only Norman Intruders, cyphers to pronounce their sentence who are judges of law as well as fact.

Judge Jermin.—Was ever such damnable, blasphemous heresy, to call the judges cyphers, the judges have ever been judges of law,

from the first settlement of the law in England, and the jury only judges of fact.

Lieutenant-Colonel Lilburne.—If you will permit me to read, I will disprove it from your own law: here is the first part of Coke's Institutes, which all lawyers allow to be good law.

Lord Keble.—Convince us that law concerns the jury, and you do somewhat.

Lieutenant-Colonel Lilburne.—Sir, I apply myself to the jury; let read me your own law to them, and I shall leave myself to their consciences: Coke says in the first part of his Institutes, sec. 366, fol. 226, 227, 228, in his exposition of Plowden.

Lord Keble.—Those quotations are not for your purpose, neither is there any such book; proceed to the matter of fact, and let this drop; you shall not read.

Judge Jermin.—There is no book intitled Coke's Commentary on Plowden, and you cannot be permitted to broach that erroneous opinion, that the jury are judges of law.

Lieutenant-Colonel Lilburne.—Then here I'll die: jury observe, is it easy to mistake Plowden for Littleton, and these are his words: [In this case the recognitors of the assize may say and render to the justices their verdict at large upon the whole matter;] and says in another place, [That the jurors have cognizance of the case as well as of the condition;] and says further, [That a special verdict, or at large, may be given in any action and upon any issue general or special.] And in sec. 368, Littleton has these words, [Also in such case where the Inquest may give their verdict at large, if they will take upon them the knowledge of the law, upon the matter they may give their verdict generally;] and Coke saith thereon, [Although the jury, if they will take upon them (as Littleton saith) the knowledge of the law, may give a general verdict.] This being to my purpose, I have done, Sir.

Lord Keble.—You have spent time to no purpose; I thought you had known law better.

Lieutenant-Colonel Lilburne.—I shall now, Sir, proceed to matter of fact, and desire the jury will take notice, that by the statutes of 1st Edward VI. c. 12. and 5th and 6th of Edward VI. c. 11. no man shall be condemned of treason, but by the clear proof of two legal witnesses; and in Coke, 3d Instit. c. High Treason, fol. 12. it is said it must be by the direct and sufficient proof of two witnesses, and not on surmises, or conjectural inferences; and that he be attainted by due course of law, and by no absolute power, or other means whatsoever; and in fol. 24, that there must be two lawful witnesses, as well on the trial as indictment: and in fol. 240, he says the same attainders of treason must be upon plain and direct evidence; for though restitution of lands may be had, there can be none of life.

Lord Keble.—The proof has been so plain as (I hope) it will convince the jury, and that they will find the prisoner guilty.

Judge Jermin.—What you have urged makes much for the jury.

Lieutenant-Colonel Lilburne.—I shall now answer your proof in the same manner as the witnesses swore. Mr. Newcomb swears I was with Captain Jones, from whom he received the "Outcry;" that Captain Jones (not I) agreed for the printing; and that I took

away a single sheet before it was corrected, which was useless, and no true copy of that charged in the indictment; neither was the title there, or knows he if the first part of the book had any dependence on that sheet; so that it is uncertain whether that sheet be part of the book contained in the indictment; neither is there more than one witness to this; and if it be the same, I was only present with my friend, accompanying him, and you may find the names of ten that own the book; so it does not affect me.

The three soldiers depose the same in substance, that I gave Lewis one out of my pocket, and told him where I believed he might buy more: they were publicly sold all over the city; so I hope the jury, being men of conscience, will not think, that giving away a sheet and a half of paper, or drinking with an acquaintance, crimes sufficient to take away my life. For though they say I asked them a question, viz. when they received any pay, yet I used no aggravating expressions, or mutinous provocations, or malicious counsel, to incense them against their officers, or stir them to rebellion; so that it is no evidence of treason against me.

The next thing charged is the "*Salva Libertate*," which the Lieutenant of the Tower says I delivered to him. He is but one witness; and as I have a suit now depending against him for four or five thousand pounds, he is a professed adversary, therefore no good witness; neither does he swear the hand is mine, or that I wrote it; so his testimony is invalid. I likewise commenced a suit against Colonel Titchburn for the like sum; so that as he is my adversary, he is no legal judge; and I desire he may be ordered off the bench. I believe likewise that part of the Tower where the Lieutenant says I gave him those papers, is not within the liberties of the city; then why should I be tried by a London jury? not that I have any objection against the gentlemen of the jury; but if the fact be committed in Middlesex, the trial ought to be by a jury of the same county.

Thomas Daffern deposes, that he went with me to Winchester House in Southwark, where I delivered him a book to carry to Colonel Ayres; he doth not say the book is mine, or of my writing; but however, Winchester House being in Surry, is not triable by a London jury; therefore I shall say no more to that, neither need I give any answer to the testimony of the Marshal, or Governor of Warwick Castle, or to the evidence of Colonel Purefoy.

The next charge is the "*Preparative to an Hue and Cry*," &c. which the Lieutenant of the Tower says I gave him in the Tower, which I am certain is in Middlesex, so not to be tried by a jury of citizens of London; neither knows he if this be the same book I delivered to him.

James Nutleigh and Edward Radley depose they saw me deliver a "*Preparative*" to their master's hands, and say I owned it to be mine, the printer's errata excepted, which the lieutenant of the Tower swears I expressed to be many. Now I question whether the Temple be within the liberties of London; however, the errata, which are many, for ought the witnesses or jury know, may be those very clauses with which I am charged, for they are not proved to be otherwise; so that they not proving six lines thereof to be mine, and I owning no more than was free from the errata, which were many, their testimonies are of no weight.

What they would next fix on me is "The Legal Fundamental Liberties," &c. and there is no proof to that but from relations out of the other books, so I shall give no further answer to that.

Lastly, for the "Agreement of the People," it is dated May, 1649, licensed and printed before either of the acts on which I am indicted bear date; so I may say with St. Paul, "Where there is no law there is no transgression." I shall only add, there has been no proof that the books charged against me are truly dated; therefore, if the books were really proved mine, (which they are not) yet not being proved to bear date exactly with the original copies, they might be made before the acts commence; by which I have fully made appear to the jury, that there is not any proof to fix the least guilt upon me; and believing them to be men of unbiassed principles, I shall leave it to their judgments and consciences.

I beg leave likewise to acquaint the jury, that could I have had time allowed me to produce my witnesses, they would have testified several material things for my justification. And though I think I have sufficiently cleared myself from the facts charged upon me, by shewing there must be two express witnesses to each particular act of treason, as I have mentioned in Major Rolfe's case, of which Mr. Nichols, who sits as judge here, is sensible, yet I shall desire the gentlemen of the jury to consider the intention of the law, as laid down in Co. 3. Inst. fol. 6:—*Et actus non facit reum, nisi mens sit rea*,—"It is the intention, not the act, that shews the guilt." During the whole course of my life I have endeavoured the prosperity of the nation, never endeavoured the prejudice of any particular person, yet was proclaimed a traitor through all the chief towns in England, and imprisoned for crimes which have not since been laid to my charge; and now, (for complaining of my hard usage only) there have been acts made long since my confinement, in order to charge me with high treason, though I have often declared my willingness to determine all differences.

Here he made a narrative of his application to the parliament, the petitions of many thousands of his friends for his trial or releasement, his signal services in the parliament army, &c. as before recited, and concluded, he was made close prisoner in the heat of summer, without either wife or child being permitted to see or comfort him.

Lord Keble.—Mr. Lilburne, instead of making your defence, you tell a long story of your own life; and should we reply to each particular, it would take up much time, but do you no service; therefore leave your discourse, or answer to the proof of the fact.

Lieutenant-Colonel Lilburne.—Though I have told it you before the jury did not hear it: and as my life lies on it, it is material to my preservation.

Lord Keble.—It is nothing to the purpose, were it in order to your defence you should not be hindered.

Lieutenant-Colonel Lilburne.—Well, if you will not let me pro-

ceed, my blood be upon your heads: and I desire the jury will take notice of your unjust and cruel usage.

Lord Keble.—You shall not be refused any thing that is material.

Lieutenant-Colonel Lilburne here exclaimed against the barbarity and tyranny with which he had been oppressed, viz. that his estate was taken from him (which should have maintained him in the Tower) and the customary allowance refused him; that his solicitor was not permitted to speak for him, though the law allowed any by-stander to do it; that he was refused council, &c. though it was his right; and resigns himself to the care and consciences of his fellow-citizens, the honest jury, who (he again said) were judges of law as well as fact; whom he prayed God to direct to act according to justice.

The audience cried Amen, Amen, and gave a great hum, which made the judges apprehensive, and caused Major-General Skippon to send for three companies of soldiers more.

Then Mr. Attorney Prideaux summed up, and made his observations on the evidence for the commonwealth, and tells the jury that the statutes of Edward VI. which required two witnesses to every fact, were rendered of no force by a later statute, 1 and 2 Ph. and Mar. And observed, that though the book intitled “The Agreement of the People” was dated the first of May 1649, before the ordinances were made on which he was indicted; yet in his other books, which were published since, he quoted that book, and referred to it; and so had republished it since the ordinances were made. And he told the jury that the fame of that gallant army, and those officers who had been so faithful and true to their trust, and had so much advanced the peace and happiness of the nation, and whom God had blessed and owned in a miraculous manner, were to be put in the balance against Mr. Lilburne, and the services he pretended to have performed.

Here Lilburne interrupted Mr. Prideaux, and told him, notwithstanding his encomiums on the army, he [Prideaux] was once one of those who voted them traitors, and was set down by the commissioners of the army as a malignant: but he said, it seemed Mr. Prideaux

had recanted his errors, and was become a good acquiescing creature, or he had not been there that day; and demanded, if, notwithstanding that boasted faithfulness, the army had not twice rebelled against their creators, their lords and masters?

Still Mr. Attorney went on, shewing what great things the army had done, who, notwithstanding, he said could not escape Mr. Lilburne's vile tongue and pen, any more than the parliament and magistracy: and therefore he told the jury, as they wished for the honour of them all, and if they had any remembrance of the great and wonderful things that renowned army had done; and with what confidence and despite to all law and authority Lilburne had published these books, he hoped they would take care he should smart for it; and concluded, that the court were judges of the law, as the jury was of fact; and prayed God to direct all their judgments.

Then Lord Keble directed the jury, and told them that the two statutes of Edward VI. which required two witnesses, was repealed by that of Queen Mary, which enacted, that the common law should be the rule in all trials of treason: and that by the common law one witness, with concurring circumstances, was sufficient: he told them, that this was the greatest treason that ever was attempted by one man; that it struck at no less than the subversion of the commonwealth and state, and to have laid them all in blood: that he did not observe that any fact the prisoner was charged with stood upon a single testimony, but was supported by many aggravating circumstances; and left it to their consciences if he was not guilty of the most transcendent treason that ever was hatched in England.

The jury desired, that they might have a quart of sack amongst them to refresh them before they went out; but judge Jermin answered, that in civil cases indeed he had known the jury permitted to drink before they went out, but never in capital cases; but said the court would permit them to have a light with them, if they pleased.

Lilburne moved, that another indifferent person might be joined with the officer who was to keep the jury; for he apprehended the officer to be his enemy; which the court granted, and another was sworn.

Then the jury withdrew (being about five o'clock) and the sheriffs were commanded to carry their prisoner into the Irish chamber; and the court adjourned till six.

At six the court returning, and the prisoner being brought to the bar again, the jury came in with their verdict; and it being demanded, if the prisoner was guilty of the treasons with which he was charged? The foreman answered, Not Guilty of all of them.

Clerk.—Not of all the treasons, or any of them, that are laid to his charge?

Foreman.—Not of all, or any of them.

At which the people unanimously shouted for half an hour without intermission. Notwithstanding the acquittal of the prisoner, the Lieutenant of the Tower was commanded to carry him back to the Tower, and Major-General Skippon to guard him; and all others were commanded to assist them, if required. And the mob attended them with loud acclamations to the Tower gates, and made abundance of bonfires in the streets that night. And on the 8th of November, the council of state, finding the people uneasy at their continuing Lilburne a prisoner, directed their warrant to the Lieutenant of the Tower to discharge him: which warrant was signed by John Bradshaw, the president.

It appears, that some time after the parliament made an ordinance for the banishment of the said John Lilburne; and enacted, that he should be adjudged guilty of felony, if ever he was found in England after such a limited time.

Upon which act or ordinance the said John Lilburne was taken into custody again, and brought to his trial at the Old Bailey, on Saturday the 20th of August, 1653: and the jury acquitted him of the felony; at which the parliament were so incensed, that they made an order that the jurors should be brought before the council, and give their reasons why they acquitted him of the felony, against plain evidence. But the jurors being separately examined, would give no other answer, but that they looked upon themselves to be judges as well of law as fact; and that they decided according to their consciences: and as to the reasons that induced them to acquit him, they would give none.

CAPTAIN JAMES HIND, HIGHWAYMAN,

HANGED SEPTEMBER 3RD, 1652.

Captain James Hind excited considerable interest in his time ; his father was a saddler, an inhabitant of Chipping-Norton in Oxfordshire, where the captain was born. The old man lived there many years in very good reputation among his neighbours, was an honest companion, and a constant churchman. As James was his only son, he was willing to give him the best education he was able, and to that purpose sent him to school till he was fifteen years of age, in which time he learned to read and write very well, and knew arithmetic enough to make him capable of any common business.

After this he was put apprentice to a butcher in his native town, where he served about two years of his time, and then ran away from his master, who was a very morose man, and continually finding something or another to quarrel with him about.

When he made this elopement, he applied immediately to his mother for money to carry him up to London, telling her of the hardships he suffered from his master's severity. She therefore very tenderly supplied him with three pounds for his expences, and sent him with tears in her eyes.

He had not been long in London before he got a relish of the pleasures of the place, which, as far as his circumstances would allow, he pursued very earnestly. One night he was taken in company with a woman of the town, who had just before picked a gentleman's pocket of five guineas, and sent with her to the Poultry Compter till morning, when he was released for want of any evidence against him, he having, in reality, no hand in the affair. The woman was committed to Newgate, but what became of her afterwards we are not certain, nor does it all concern us. The captain by this accident fell into company with one Thomas Allen, a noted highwayman, who had been put into the Compter upon suspicion of some robbery, and was released at the same time with Hind, and for the same reason. These two

men going to drink together, after their confinement, they contracted a friendship which was the ruin of them both, as the reader will observe in the perusal of these pages.

Their first adventure was at Shooter's-hill, where they met with a gentleman and his servant. Hind being perfectly raw and inexperienced, his companion was willing to have a proof of his courage; and therefore staid at some distance while the captain rode up, and singly took from them fifteen pounds; but returned the gentleman twenty shillings to bear his expences on the road, with such a pleasant air, that the gentleman protested he would never hurt a hair of his head, if it should at any time be in his power. Allen was prodigiously pleased both with the bravery and generosity of his new comrade, and they mutually swore to stand by one another to the utmost of their power.

It was much about the time that the murder of King Charles I. was perpetrated at his own palace gate by the fanatics of that time, when our two adventurers began their progress on the road. One part of their engagement together was never to spare any of the regicides that came in their way. It was not long before they met the grand usurper Cromwell, as he was coming from Huntingdon, the place of his nativity, to London. Oliver had no less than seven men in his train, who all came immediately upon their stopping the coach, and overpowered our two heroes; so that Allen was taken on the spot, and soon after executed, and it was with a great deal of difficulty that Hind made his escape, who resolved from this time to act with a little more caution. He could not, however, think of quitting a course of life which he had just begun to taste, and which he found so profitable.

The captain rode so hard to get out of danger after this adventure with Cromwell, that he killed his horse, and he had not at that time money enough to buy another. He resolved, therefore, to procure one as soon as possible, and to this purpose tramped along the road on foot. It was not long before he saw a horse hung to a hedge with a brace of pistols before him; and looking round him, he observed on the other side of the hedge a gentleman untrussing a point. "This is my horse,"

says the captain, and immediately vaults into the saddle. The gentleman calling to him, and telling him that the horse was his, "Sir," says Hind, "you may think yourself well off that I have left you all the money in your pockets to buy another, which you had best lay out before I meet you again, lest you should be worse used." So he rode away in search of new adventures.

Another time Captain Hind met the celebrated regicide, Hugh Peters, in Enfield-Chase, and commanded him to deliver his money. Hugh, who had his share of confidence, began to lay about him with texts of scripture, and to cudgel the bold robber with the eighth commandment. It is written in the law, says he, That thou shalt not steal. And furthermore Solomon, who was surely a very wise man, speaketh in this manner: Rob not the poor, because he is poor. Hind was willing to answer the old hypocrite in his own strain; and for that end, began to rub up his memory for some of the scraps of the bible which he had learned by heart in his minority. Verily, said Hind, if thou hadst regarded the divine precepts as thou oughtest to have done, thou wouldest not have wrested them to such an abominable and wicked sense as thou didst the words of the prophet, when he saith, Bind their kings with chains, and their nobles with fetters of iron. Didst thou not, thou detestable hypocrite, endeavour from these words to aggravate the misfortunes of thy royal master, whom thy accursed republican party unjustly murdered before the door of his own palace? Here Hugh Peters began to extenuate that proceeding, and to allege other parts of scripture in his defence, and said that thieving was very unlawful: Pray, Sir, replied Hind, make no reflections on my profession; for Solomon plainly says, Do not despise a thief; but it is to little purpose for us to dispute: The substance of what I have to say, is this, deliver thy money presently, or else I shall send thee out of the world to thy master in an instant.

These words of the captain frightened the old presbyterian in such a manner, that he gave him thirty broad pieces of gold, and then they parted. But Hind was not thoroughly satisfied with letting such a notorious enemy to the royal cause depart in so easy a manner. He, therefore, rode after him, full speed, and overtook

ing him, spoke as follows: Sir, now I think of it, I am convinced that this misfortune has happened to you, because you did not obey the words of the scripture, which say expressly, provide neither gold, nor silver, nor brass in your purses for your journey. Whereas it is evident that you had provided a pretty deal of gold: however, as it is now in my power to make you fulfil another command, I would by no means slip the opportunity—therefore, pray give me your cloak. Peters was so surprised, that he neither stood to dispute, nor to examine what was the drift of Hind's demand; but Hind soon let him understand his meaning, when he added, you know, Sir, our Saviour has commanded, that if any man take away thy cloak, thou must not refuse thy coat also; therefore, I cannot suppose you will act in direct contradiction to such an express direction, especially now you cannot pretend you have forgot it, because I have reminded you of your duty. The old Puritan shrugged his shoulders for some time, before he proceeded to uncase them; but Hind told him his delay would do him no service; for he would be punctually obeyed, because he was sure what he requested was consonant to the scripture: accordingly Hugh Peters delivered his coat, and Hind carried all off.

Next Sunday, when Hugh came to preach, he chose an invective against theft for the subject of his sermon, and took his text in the Canticles, chap. v. ver. 3. I have put off my coat, how shall I put it on. An honest cavalier who was present, and knew the occasion of his chusing those words, cried out aloud: Upon my word, Sir, I believe there is nobody can tell you, unless Captain Hind was here! which ready answer to Hugh Peters' scriptural question, put the congregation into such an excessive fit of laughter, that the fanatic parson was ashamed of himself, and descended from his box, without proceeding any further in his harangue.

It has been observed before, that Hind was a professed enemy to all the regicides; and, indeed, fortune was so favourable to his desires, as to put one or other of them often into his power.

He met one day with Serjeant Bradshaw, who had some time before sat as judge upon his lawful sovereign, and passed sentence of death upon majesty. The place where this rencontre happened, was, upon the road

between Sherbourn and Shaftesbury, in Dorsetshire. Hind rode up to the coach side, and demanded the serjeant's money; who, supposing his name would carry terror with it, told him who he was. Quoth Hind, I fear neither you, nor any king-killing vagabond alive. I have now as much power over you, as you lately had over the king, and I should do God and my country good service, if I made the same use of it; but live, villain, to suffer the pangs of thine own conscience, till justice shall lay her iron hand upon thee, and require an answer for thy crimes, in a way more proper for such a monster, who art unworthy to die by any hands, but those of the common hangman, and at any other place than Tyburn. Nevertheless, although I spare thy life as a regicide, be assured, that unless thou deliverest thy money immediately, thou shalt die for thy obstinacy.

Bradshaw began to be sensible that the case was not now with him, as it had been when he sat at Westminster Hall, attended with the whole strength of the parliament. He put his hand into his pocket and pulled out about forty shillings in silver, which he presented to the captain, who swore he would that minute shoot him through the heart, if he did not find coin of another species. The serjeant at last gave the captain a purse full of Jacobuses.

Hind, having thus got possession of the cash, he made Bradshaw yet wait a considerable time longer, while he made the following eulogium on money; which, though in the nature of it, it be something different from the harangues which the serjeant generally heard on a Sunday, contains, nevertheless, as much truth, and might have been altogether as pleasing, had it come from another mouth.

This, Sir, is the metal that wins my heart for ever! O precious gold, I admire and adore thee as much as either Bradshaw, Pryn, or any other villain of the same stamp, who, for the sake of thee, would sell their Redeemer again, were he now upon earth. This is that incomparable medicament which the republican physicians call the wonder-working plaister. It is truly catholic in operation, and somewhat of a kin to the Jesuits powder, but more effectual. The virtues of it are strange and various; it makes justice deaf, as well as blind, and takes out spots of the deepest treason, as easily as Castile-soap does common stains; it alters a man's constitution in two or three days more than the virtuoso's transfusion of blood can do in seven years. It is a great Alexiopharmick, and helps

poisonous principles of rebellion, and those that use them. It miraculously exalts and purifies the eye-sight, and makes traitors behold nothing but innocence in the blackest malefactors. It is a mighty cordial for a declining cause; it helps faction and schism as certainly as the itch is destroyed by butter and brimstone. In a word, it makes fools wise men, and wise men fools; and both of them knaves. The very colour of this precious balm is bright and dazzling. If it be properly applied to the fist, that is, in a decent manner and a competent dose, it infallibly performs all the above-said cures, and many others too numerous to be here mentioned.

The captain having finished his panegyric, he pulled out his pistol, and said further :—

You and your infernal crew have a long while run on, like Jehu, in a career of blood and impiety, pretending that zeal for the Lord of Hosts has been your only motive. How long you may be suffered to continue in the same course, God only knows. I will, however, for this time, stop your race in a literal sense of the words.

With that he shot all the six horses which were in the serjeant's coach, and then rode off in pursuit of another booty.

Sometime after, Hind met a coach on the road between Petersfield and Portsmouth, filled with gentlewomen; he went up to them in a genteel manner, and told them, that he was a patron of the fair-sex, and that it was purely to win the favour of a hard-hearted mistress, that he travelled the country: but ladies, added he, I am at this time reduced to the necessity of asking relief, having nothing to carry me on my intended prosecution of adventures. The young ladies, who most of them read romances, could not help imagining they had met with some Quixote, or Amadis de Gaul, who was saluting them in the strain of knight errantry; Sir knight, said one of the pleasantest among them, we heartily commiserate your condition, and are very much troubled that we cannot contribute towards your support; but we have nothing about us but a sacred depositum, which the laws of your order will not suffer you to violate. Hind was pleased to think he had met with such agreeable gentlewomen, and, for the sake of the jest, could freely have let them pass unmolested, if his necessities at this time had not been very pressing. May I, bright ladies, be favoured with the knowledge of what this sacred depositum, which you speak of, is, that so I may employ my utmost abilities in its defence, as the laws of knight-errantry require?

The lady who spoke before, and who suspected the least of any one in company, told him, that the depositum she had spoken of, was 3000*l.* the portion of one of the company, who was going to bestow it upon the knight who had won her good will by his many past services. My humble duty be presented to the knight, said he, and be pleased to tell him, that my name is Captain Hind; that out of mere necessity, I have made bold to borrow part of what, for his sake, I wish were twice as much; that I promise to expend the sum in defence of injured lovers, and the support of gentlemen who profess knight-errantry. At the name of Captain Hind, they were sufficiently startled, there being nobody then living in England who had not heard of him. Hind however bade them not be affrighted, for he would not do them the least hurt, and desired no more than one thousand pounds out of the three. This the ladies very thankfully gave in an instant (for the money was tied up in separate bags) and the captain wished them all a good journey, and much joy to the bride.

Another time, Hind was obliged to abscond for a considerable time in the country, there being great inquiries made after him; during this interval, his money began to run short, and he was a great while before he could think of a way to replenish his purse. He would have taken another turn or two on the highway, but he had lived so long here that he had sold his very horse. While he was in this extremity, a noted doctor in his neighbourhood went to receive a large sum of money, for a cure which he had performed, and our captain had got information of the time. It was in the doctor's way home to ride directly by Hind's door, who had hired a little house on the side of a common. Our adventurer took care to be ready at the hour the doctor was to return, and when he was riding by the house, he addressed himself to him in the most submissive style he was master of, telling him that he had a wife within, who was violent bad with a flux, so that she could not live without present help; intreating him to come in but two or three minutes, and he would shew his gratitude as soon as he was able. The doctor was moved with compassion at the poor man's request, and immediately alighted, and accompanied him in, assuring him that he should

be very glad if it was in his power to do him any service. Hind conducted him up stairs, and as soon as they were got into the chamber, shut the door, and pulled out a loaded pistol and an empty purse, while the doctor was looking round for his patient. This, quoth Hind, holding up the purse, is my wife ; she has had a flux so long, that there is now nothing at all within her. I know, Sir, you have a sovereign remedy in your pocket for her distemper, and if you do not apply it without a word, this pistol shall make the day shine into your body. The doctor would have been glad to have lost a considerable fee, provided he might have had nothing to do with the patient ; but when he saw there was no getting off, he took forty guineas out of his pocket, and emptied them out of his own purse into the captain's, which now seemed to be in pretty good health. Hind then told the doctor that he would leave him in full possession of his house, to make amends for the money he had taken from him. Upon which he went out and locked the door upon the doctor, mounting his horse, and riding away as fast as he was able, to find another country to live in, well knowing that this would now be too hot to hold him.

Hind has been often celebrated for his generosity to all sorts of people ; more especially for his kindness to the poor, which it is reported was so extraordinary, that he never injured the property of any person who had not a complete share of riches. We shall give one instance, instead of a great many which we could produce, which will sufficiently confirm this general opinion of his tenderness for those that were needy.

At a time when he was out of cash (as he frequently was, by reason of his extravagance,) and had been upon the watch a pretty while, without seeing any worth his notice, he at last espied an old man jogging along the road upon an ass. He rides up to meet him, and asked him very courteously where he was going ; to the market, said the old man, at Wantage, to buy me a cow, that I may have some milk for my children.—How many children, quoth Hind, may you have ? the old man answered ten.—And how much do you think to give for a cow ? said Hind. I have but forty shillings, master, and that I have been saving together these two years, says the poor wretch. Hind's heart ached for the poor

man's condition, at the same time that he could not help admiring his simplicity; but being in so great a strait as we have intimated, he thought of an expedient, which would both serve him, and the old man too. Father, said he, the money you have got about you, I must have at this time, but I will not wrong your children of their milk. My name is Hind, and if you will give me your forty shillings quietly, and meet me again this day s'enight at this place, I promise to make the sum double. Only be cautious that you never mention a word of the matter to any body between this and that. At the day appointed the old man came, and Hind was as good as his word, bidding him buy two cows instead of one, and adding twenty shillings to the sum promised, that he might purchase the best in the market.

Never was highwayman more careful than Hind to avoid blood-shed, yet we have one instance in his life, that proves how hard it is for a man to engage in such an occupation, without being exposed to a sort of wretched necessity some time or other, to take away the life of another man, in order to preserve his own; and in such a case, the argument of self-defence can be of no service to extenuate the crime, because he is only pursued by justice; so that a highwayman who kills another man, upon whatever pretence, is as actually guilty of murder, as a man who destroys another in cold blood, without being able to give a reason for his so doing.

Hind had one morning committed several robberies in and about Maidenhead Thicket, and, among others, had stopped Colonel Harrison, a celebrated regicide, in his coach and six, and taken from him seventy odd pounds. The colonel immediately procured a hue-and-cry for taking him, which was come into that country before the captain was aware of it. However, he heard at a house of intelligence, which he always had upon every road he used, of the danger he was in; and thereupon he instantly thought of making his escape, by riding as fast as he could from the pursuers, till he could find some safer way of concealing himself.

In this condition, the Captain was apprehensive of every man he saw. He had got no farther than a place called Knole-Hill, which is but a little way off the thicket, before he heard a man riding behind him full

speed. It was a gentleman's servant endeavouring to overtake his master, who was gone before, with something that he had forgot. Hind, just now thought of nothing but his own preservation, and therefore resolved either to ride off, or fire at the man, who he concluded was pursuing him. As the other horse was fresh, and Hind had pretty well tired his, he soon perceived the man got ground of him, upon which he pulled out a pistol, and just as the unfortunate countryman was at his horse's heels, he turned about and shot him through the head, so that he fell down dead on the spot. The Captain, after this act, got entirely off; but it was for this that he was afterwards condemned at Reading.

After King Charles I. was beheaded, the Scots received and acknowledged his son King Charles II. and resolved to maintain his right against the reigning usurpation. To this end, they raised an army, and marched towards England, which they entered with great precipitation. Abundance of gentry, and others who were loyal in their principles, flocked to the standard of their Sovereign, and resolved to lose their lives in his service, or restore him to his dignity. Among these, Hind, who had as much natural bravery as almost any man that ever lived, resolved to try his fortune. Cromwell was sent by the parliament into the north to intercept the royal army, but in spite of that vigilant traitor's expedition, the King advanced as far as Worcester, where he waited the enemy's coming.

Oliver came to Worcester soon after, and the consequence of the two armies meeting was a very fierce and bloody battle, in which the royalists were defeated. Hind had the good fortune to escape at that time, and came to London, where he lodged with one Mr. Denzie, a barber, opposite St. Dunstan's Church, in Fleet-street, and went by the name of Brown. But he was discovered by a very intimate acquaintance. It must be granted, that he had sufficiently deserved the stroke of justice; but there yet appears something so shocking in a breach of friendship, that we cannot help wishing somebody else had been the instrument.

As soon as he was apprehended, he was carried before the speaker of the House of Commons, who then lived

in Chancery-lane, and after a long examination was committed to Newgate, and loaded with irons. He was conveyed to prison by one Captain Compton, under a strong guard; and the warrant for his commitment commanded that he should be kept in close confinement, and that nobody should be admitted to see him without orders.

On Friday the 12th of December, 1651, Captain James Hind was brought to the bar of the Sessions House in the Old Baily, and indicted for several crimes, but nothing being proved against him that could reach his life, he was conveyed in a coach from Newgate to Reading in Berkshire, where on the first of March, 1651, he was arraigned before Judge Warberton, for killing one George Sympson, at Knole, a small village in that county. The evidence here was very plain against him, and he was found guilty of wilful murder; but an act of oblivion being issued out the next day, to forgive all former offences but those against the state, he was in great hopes of saving his life; until by an order of council he was removed by habeas corpus to Worcester Jail.

At the beginning of September, 1652, he was condemned for high treason, and on the 24th of the same month, he was drawn, hanged and quartered, in pursuance of the same sentence, being thirty-four years of age. At the place of execution, he declared that most of the robberies which he had ever committed, were upon the republican party, of whose principles he professed he always had an utter abhorrence. He added, that nothing troubled him so much, as to die before he saw his royal master established on his throne, from which he was most unjustly and illegally excluded by a rebellious and disloyal crew, who deserved hanging more than he himself.

After he was executed, his head was set upon the bridge gate, over the river Severn, from whence it was privately taken down, and buried within a week afterwards. His quarters were put upon the other gates of the city, where they remained till they were destroyed by wind and weather.

TO THE MEMORY OF CAPTAIN HIND

By a Poet of his own Time.

I.

WHENEVER death attacks a throne,
Nature thro' all her parts must groan,
The mighty monarch to bemoan.

II.

He must be wise, and just, and good;
Tho' nor the state he understood,
Nor ever spar'd a subject's blood.

III.

And shall no friendly poet find,
A monumental verse for Hind?
In fortune less, as great in mind.

IV.

Hind made our wealth one common store;
He robb'd the rich to feed the poor:
What did immortal Cæsar more?

V.

Nay, 'twere not difficult to prove,
That meaner views did Cæsar move:
His was ambition, Hind's was love.

VI.

Our English hero sought no crown,
Nor that more pleasing bait, renown:
But just to keep off fortune's frown.

VII.

Yet when his country's cause invites,
See him assert a nation's rights!
A robber for a monarch fights!

VIII.

If in due light his deeds we scan,
As nature points us out the plan,
Hind was an honourable man.

IX.

Honour, the virtue of the brave,
To Hind that turn of genius gave,
Which made him scorn to be a slave.

X.

This, had his stars conspir'd to raise,
His natal hour, this virtue's praise
Had shone with an uncommon blaze.

XI.

And some new epoch had begun,
From every action he had done,
A city built, a battle won.

XII.

If one's a subject, one at helm,
'Tis the same violence, says Anselm,
To rob a house, or waste a realm.

XIII.

Be henceforth then for ever join'd,
The names of Cæsar, and of Hind,
In fortune different, one in mind.

GILDER ROY, A HIGHLAND ROBBER,

HANGED AT EDINBURGH, 1652.

THIS offender was descended of a very good family in the Highlands of Scotland. His father died just when he had seen his son reach that age at which the law supposes a man capable to manage his own affairs, and left him an estate in Perthshire of about eighty marks per annum. But though Gilder Roy was twenty-one years old, he was a worse economist than the old gentleman expected; so that in about a year and a half all his substance was destroyed, his estate sold, and himself reduced to the most extreme necessity, notwithstanding the frequent admonitions of his friends against his profuseness, and their honest intreaties, that he would reflect upon his condition before it would be too late.

A man who has given a loose to his inclinations, and always placed his happiness in the pursuit of irregular pleasures, will, when necessity stares him in the face, do any thing in the world rather than quit the chace, and make virtue the object of his wishes and pains. The only thought Gilder Roy seemed to have in his distress, was how to retrieve his circumstances, though at the expence of half a nation.

His mother had a small jointure, with the income of which she supplied him, till she saw it was to no purpose, he still consuming all she could raise in a little time. At last she withheld her hand, and left him for the future to shift for himself. This so irritated the villain, that nothing but the death of the good old woman could pacify him; in order to accomplish which, he arose one night, and burst violently into his mother's bed-chamber, while she was asleep, who had still been so unhappily tender as to let him lodge in her house. The rest of this action is shocking to relate: he cut the throat of his indulgent parent from ear to ear, ravished his own sister and a maid servant, left them both bound, took every thing valuable out of the house; then set fire to it, burning that and the two deflowered maidens all together.

This almost unparalleled piece of barbarity filled the whole country round with horror; the author of it was suspected, and a considerable reward was offered in a proclamation issued out for apprehending him. The money, with the abhorrence every body had of his crime, made it unsafe for him to stay any longer in his native country; so he fled into France, where he lived upon the spoil of his murdered mother till it was all spent, and he was obliged to make use of his wits for a livelihood.

Being once at St. Dennis' he went to the cathedral, a mausoleum for the Kings of France, situated not far from the city of Paris, where, during the solemnization of high mass, several of the best quality were present. Here he applied himself to one who was seated most suitably for his design, and immediately with an air of assurance, as though he had known the gentleman, pointed to several of the fairest ladies, and endeavoured to make himself pass for a gallant to the ladies; which he might well enough do, he being as well dressed as any body there. The French gentleman had by this time directed his attention more to his new acquaintance than to the devotion of the day; which Gilder Roy perceiving, he made signs that he intended to take a fine gold watch of great value from a lady's side just by, whom he perceived to be acquainted with Monsieur. There being no mistrust of any thing more than a joke, (the Frenchman little thinking a thief had made him his companion) they whispered together where they should meet after service was over, and carry their prize to the fair owner, when she had been sufficiently grieved for her loss.

Satisfied with this fallacy, the French gentleman made the best of his way out of the church, when high mass was over, and left Gilder Roy to take care of himself, not doubting in the least but his new acquaintance would punctually meet him at the place appointed. But Gilder Roy was far enough in two hours time, and the French gentleman did not suspect any treachery before, but imagined his delay might be occasioned by meeting a friend, or the like. However, being impatient, he went at last in confusion enough to inform the lady of what had passed! It was evident the sharper had outwitted him, and that by his connivance he had stole the watch

in earnest: so he humbly asked her ladyship's pardon, and entreated her to accept of another watch of equal value from him, which he owned was but a just penance for the folly he had been guilty of in so credulously placing too much confidence in a stranger. In short, the lady, though full of resentment, accepted of the present, but discarded him from his former capacity of being her suitor, telling him, she would never have a man so tame as to sit by and see her robbed without taking her part.

From France he took a tour over the Pyrenean Mountains into Spain, committing several notorious robberies in divers parts of that kingdom, particularly in Madrid. In this capital he found means to get a large quantity of plate from the Duke of Medina Celi, when all his servants were busied in an entertainment for foreign ambassadors. This trick was performed by a previous acquaintance with the steward, who introduced him at his pleasure.

Gilder Roy, after he had been about three years abroad, had the confidence to venture home again, supposing that, though the horrible crime he had there committed would never be forgotten, yet the heat of inquiry after him was pretty well over. He now got together a great company of men, and made his name almost as terrible in some of the remote parts of Scotland, as that of Robin Hood was formerly about the Forest of Sherwood in England: particularly in the counties of Athol, Lochaber, Angus, Mar, Baquahan, Murray and Sutherland, he was dreaded as much as a common enemy in time of war. The confusion of affairs in these kingdoms, we may conclude, contributed a great deal towards the establishing him in this manner, and his evading the stroke of justice so long as he did. All the common people he laid under contribution, and obliged them to allow him so many head of cattle quarterly for his protection, which he was so impudent as to grant them in form; by the means of which they might travel without molestation from him or any of his gang. It was in vain to think of not coming into his articles; for those who were not willing to allow him part of their substance, were sure to lose it all without any ceremony.

It would be tedious to enumerate half the robberies

that were committed by Gilder Roy and his execrable crew.

Among the persons said to be robbed by Gilder Roy, we find the Earl of Linlithgow, from whom he took a gold watch, a diamond ring, and eighty broad pieces. Oliver Cromwell is another mentioned on this occasion; but the writers of that time, who endeavoured to throw all the indignities they could on the republican party, have probably made this usurper and his friends to be served in this manner much oftener than they really were. One gentleman, however, that fell in Gilder Roy's way, made a stout opposition with two of his servants, till one of the men was killed, and the master himself wounded, Gilder Roy shot all their horses, mounted the gentleman upon an ass, and sent him to seek his fortune.

Three of this company were at last apprehended, and sent to the Tolbooth in Edinburgh; out of which prison they broke, but were soon retaken, condemned, and executed at a distance without the city; where their bodies were left hanging as a terror to others, till they should drop down of themselves.

These three men were part of Gilder Roy's particular favourites; whereupon he vowed revenge, and communicated his design to the rest of the gang, who all agreed to join with him in the execution of it. Their business was to way-lay the judge, or Lord of Session, as he is there called, who had passed the sentence, and who was soon after so unhappy as to fall into their hands. His coachman and two footmen they stripped stark naked, tied them hand and foot, and threw them into a deep pond, where they were immediately drowned: then they killed the four coach horses, cut the coach all to pieces, and rifled his lordship of every thing about him that was valuable. This was not, however, half the punishment they designed him, for they kept him confined in a wood till dead of night, and then they put him on horseback, and brought him to the gallows where their comrades were hanging. The form of a gallows or gibbet in Scotland is something like our turn-stiles, and consists of two beams that cross one another upon the top of a high post, so that they point four several ways. It was upon such a machine as this that those fellows

were hung, and there was one of the points vacant. When they arrived at the place Gilder Roy told the judge: that, forasmuch as the structure was not uniform without a fourth person, his lordship must fill the vacancy, and take swing upon the empty beam. As soon as he had delivered his jest, he let the poor judge see that he intended to act in earnest; for a rope was instantly put round his lordship's neck, and he was fairly tucked up to keep the malefactors company.

A long series of success made Gilder-Roy so insolent, that he made nothing of killing those who disputed the delivery of their money. He ravished almost all the women that he could get into his power, set fire to houses and barns upon the least affront, and spread an inexpressible fear in every part where he haunted. The great complaints that were raised were the occasion of a second proclamation for the taking of him either dead or alive, in which the reward offered was no less than one thousand marks. This obliged him again to take a little more care of his conduct, and live privately as often and as much as his money would permit.

One Elizabeth Cunningham, whom he kept for a mistress, hearing of the proclamation, and perceiving that it hindered him from bringing her so much money as usual, thought it her best way to lay hold of this opportunity, play the downright jade, and betray him. This she accomplished in her own house, which she caused to be surrounded with a body of men one night when he was with her. Gilder Roy heard a noise, and perceived that he was trepanned, nor was he at a loss to think by whom: seeing therefore that he could no ways escape, he resolved to be revenged on his betrayer; which he was before the guards could seize him. He took a knife and ripped up her belly as she lay in bed, where she kept to prevent his suspecting her. After this he made as desperate a defence as ever was heard of, killing eleven of his adversaries as they attempted to come to him.—But all this served only to aggravate his crimes; for he was taken and put into prison, where his hands, feet, and waist, were all loaded with irons for the greater security. Having been kept three days in this condition, he was conveyed to Edinburgh, by a strong guard, and there executed according to law, on a gibbet thirty feet high,

on the ninth day of October, 1652. He was thirty-four years of age, and died in a sullen temper, without any confession. His body was hung in chains on another gibbet, erected for that purpose between Edinburgh and Leith.

DR. JOHN PORDAGE, RECTOR OF BRADFIELD,

BEFORE THE COMMISSIONERS OF BERKS, FOR EJECTING
SCANDALOUS AND INSUFFICIENT MINISTERS, 1654.

DR. PORDAGE attended, according to summons, at the Bear in Speenhamland, by Newbury, on the 5th of October, and was called before the commissioners; but his two friends that he brought with him being kept out, and the doors shut, he demanded if this were a public court of justice, and said if it were, he conceived the doors ought to be open for all persons, as was customary with other committees and courts of judicature; whereupon the doors were opened, and the people came in; but Wightwick, a commissioner, declared he should fare the worse for it.

Then the articles were read against him, and are as follow, viz.—

1. That the fiery deity of Christ mingles and mixes itself with our flesh.
2. That the imputative righteousness of Christ is a sapless righteousness.
3. That the discoveries of the sinfulness of sin, the terrors of the law, the death of Christ, the free grace of God, are fleshly and flashy discoveries.
4. That the liberty and freedom spoken of, purchased by the blood of Christ, and applied by the clinging and cleaving of the soul to, is not a liberty or freedom from the guilt of sin, the curse of the law, the wrath of God, but the fiery deity of Christ in the centre of our souls.
5. That by male and female, Gen. i. we are to understand by male the Deity, by the female the humanity, and that these two became one flesh. These things were delivered without any limitation whatsoever.
6. That gifts and graces of the Spirit are but flesh.
7. That Christ is a type, and but a type.
8. That Christ is not God.
9. That Christ is not Jehovah.

The articles being read, the chairman demanded his answer.

Mr. Pordage said, that he had been already tried before, and acquitted by the committee of plundered ministers, who had full power to do it, and desired the liberty of a felon, who after trial and acquittal could not be questioned again for the same fact; but if they had any new matter to object, he was ready and willing to answer it.

Mr. Hewes, an assistant minister, replied, a felon might be acquitted at one assizes and hanged at the next, for the same fact. Then the commissioners declared they had power to take cognizance of the articles, notwithstanding his discharge in another court; and accordingly made an order of court that Pordage should attend that day fortnight at the same place, to give in his answer.

On the 19th, Pordage offered his former discharge, instead of an answer, which was read, copied, and returned; but the commissioners overruled his discharge, and ordered him to put in his answer. He then delivered a paper containing reasons for his not being tried before them, and an answer to the charge, the substance of which follows, viz.—

1. That none of the offences mentioned in the articles are comprehended in the act made the 9th of August, 1650, against several atheistical opinions, &c. unless the meaning be wrested beyond the literal sense.

2. That the words mentioned in the articles were uttered a year before the said act was made, and that no person is to be punished by that act, unless he be prosecuted within six months after the offence committed.

3. That they could not take cognizance of these matters, he having already been tried for them before the commissioners of Berks, who were authorized by parliament to put out and put in ministers in this county.

4. He had been likewise heard, dismissed, and acquitted by the committee of plundered ministers, empowered also by act of parliament, and that it was contrary to that fundamental maxim of Magna Charta, *Nemo bis punietur pro uno delicto*, and to the 6th article of the Instrument of Government, "That the laws shall not be altered but by consent of parliament," &c.

That, however, he now delivered his answer to the articles, for their satisfaction, though he did not think them under the cognizance of the act.

1. He acknowledges the expression, "That Christ is not God," but said the following words were added, "the Father," or "not Jehovah," and then it was not blasphemous.

2. That if to the words, "Christ's imputative righteousness would prove a sapless righteousness," were added, as in truth they were, "to those who had not sufficient grace to extinguish their lusts and corruptions," it would be no crime. And that the act condemns those only who shall avowedly maintain such execrable opinions, which he never did; for he only spoke it in an extemporary dispute, and always held and preached that Christ was God and Jehovah, and believed Christ's righteousness, rightly applied, to be the righteousness of justification.

3. That for the explanation of the fiery nature of Christ's deity, must be considered Scripture metaphors, as, Heb. xii. 29.—"Our God is a consuming fire;" and again, "Christ shall come in flaming fire," which must either be the fire of his divine love, to consume our corruptions, or of his divine wrath, to destroy sin and sinners.

4. That the fiery Deity, &c. does not mix with the fleshly part of the soul, or the outward elementary flesh of the body, but with the pure regenerated part of the soul; and thus, according to the apostle's phrase, "We are made partakers of the divine nature."

5. That Christ's life and conversation were a "type," or pattern for Christians to regulate their lives by, but denied saying he was "but a type."

6. That the common "gifts and graces of the Spirit are but fleshly", and weak in point of justification. And that he had before explained himself in this manner, as their own witnesses had confessed on their former examination.

(Subscribed) JOHN PORDAGE. '

The commissioners offering Mr. Pordage a summons to fetch his witnesses, in order to his defence, he replied, he thought his discharge and answer sufficient, and hoped, as he was now ready to produce all their depositions, delivered on oath to the committee of plundered ministers, they would not give him the trouble and charge of traversing it again *viva voce*, which was rejected, and an order made for his appearance, and a summons for his witnesses to attend that day fortnight at that place, to answer some additional articles now exhibited against him by Joseph Cook, to prove his ignorance and insufficiency for the ministry, and are as follow:—

1. That Mrs. Lewyn, sending for Dr. Pordage's mother to be her midwife, he hindered her going, and said they would not be guilty of such a beast-like life, meaning Mrs. Lewyn having children by her husband.

2. That he blamed Mrs. Lewyn for, and urged the unlawfulness of having children by her husband.

3. That he maintained and seemed to prove from Scripture, that Adam was made male and female, and, if he had not fallen, had brought forth children himself.

4. That he asked Mr. Lewyn if he would not be afraid to see his own shape, intimating that Pordage himself had used to see his.

5. That he had for some weeks in his house one Everard, a reputed conjurer, and one Tawney, who stiled himself King of the Jews, and held dangerous opinions, as, that there is no hell, &c.

These articles being read, Mr. Pordage desired that the matter of the other articles might be first finished, but this was refused.

November 2. The commissioners being set, demanded his answer to the second charge; he answered, it was ready, but desired, to prevent confusion, they would hear his witnesses to the first charge; but they would hear nothing before they had his answer, which he then delivered, and is as follows:—

That ignorance and insufficiency are very distinct from scandal and heresy, and that certainly the protector and council who made the ordinance, did not design to confound them under the same denomination; that several learned ministers differ in their opinions, yet are not thought ignorant, or insufficient for the ministry; and if these articles could be proved, they must be referred either to scandal or heresy, unless the boundless liberty and wills of the judges resolve to deem that ignorant and insufficient which is not so in itself.

That he should give no answer to the first four articles, till he saw them proved by sufficient witnesses.

And as to Everard, mentioned in the fifth article, he said he desired to be employed in harvest work, and he entertained him as a workman for almost three weeks, but never heard or suspected that Everard was a conjurer, till after he was gone; that then indeed he (Pordage) believed it, and had some thoughts to prosecute him, but considering his surmises were not sufficient grounds of conviction, he waived it.

That his entertaining Tawney was consonant to the commands of Scripture, viz. to feed the hungry, clothe the naked, and lodge the stranger; and that it is said in the 37th Article of Government, that “all who profess faith in God, through Christ Jesus, though differing in doctrine, &c. shall be protected,” that then surely they might be fed, clothed, and entertained. That he never received any drunkard or profane person, but those only who came under the appearance of godliness. That he was commanded to prove all things, and hold fast that which is good; and as many false spirits are gone out into the world, how should he prove them but by conversation, Christian discourse, and sound doctrine?

JOHN PORDAGE.

The answer being read, the commissioners then proceeded to the proof of the first articles, and Mr. Tickle was called. Mr. Pordage desired he might cross-examine him in open court, which was refused, and he was ordered to write his interrogatories, and they should be proposed to the witness and answered in private, in the

absence of Pordage. And the commissioners afterwards, though pressed by Pordage, refused to produce Tickle's answer to his interrogatories, and instead of examining the doctor's witnesses, Mr. Fowler, an assistant minister, not waiting the clerk's leisure, took the paper from him, and read a new charge against him, which, with his answers, follow in the next day's proceedings, to which the reader is referred.

After these additional articles were read, Mr. Fowler read the examination of one Sewer, who deposed that Dr. Pordage affirmed marriage to be a very wicked thing, and contrary to the word of God; and that the deponent, asking if his wife should die, what he should have done, the Doctor replied, "Would you be so wicked as to marry?" after which Mr. Fowler desired the audience to take notice that Doctor Pordage was guilty of atheism, devilism, and of a loose life and conversation, and that he would prove the articles charged against him, or be counted a slanderer, and then suddenly departed the court.

Mr. Pordage again urged that his witnesses might be heard, in reference to the first articles, for that they were now ready, according to their own appointment; and if refused, he must be at farther charge and trouble to produce them another time; but this was denied, and two witnesses called to prove the second charge; and notwithstanding the Doctor desired their examination might, like his accusation, be in open court, or at least that he might be present, it was denied, and the court having caused two of the witnesses to the second charge to be examined privately, they adjourned, having made an order for him to attend again at the Bear in Reading on the 22d instant.

November 22.—Dr. Pordage was again called, and asked for his answer. He desired leave to read the articles, with his answer to each, as he went along, which was agreed to.

The Articles and Answer follow:—

Article 1.—That the righteousness of Christ was a poor, vain, sapless righteousness.

Answer.—This was in my former charge; and I deny that I ever spoke the words, without some limitation.

Article 2.—That Jesus Christ was not perfect, (quoting that

place of Scripture to confirm it,) "My God, my God, why hast thou," &c.

Answer.—I uttered these words only by way of relation, as I heard them in a sermon of Mr. Erbery's, at Somerset House.

Article 3.—That the blood of Christ was not meritorious of any man's salvation.

Answer.—I deny that I ever said the words, for my judgment hath always been the contrary.

Article 4.—That it was a poor thing to live upon the blood of Christ; and, fetching it over again in a contemptuous manner, "Pish!" said he, "thou art a babe—thou knowest nothing; to live upon the blood of Christ is a poor thing."

Answer.—Mrs. Grip complaining to me that Mr. Fowler had slandered her, by reporting she then lived in adultery, and saying she was an elect person, for that Christ died for her, and justified her by his blood from all guilt and sin, I said it was a poor thing to live and look so much on the blood of Christ, except she had the nature and the spirit of Christ, and she still crying she lived on the blood of Christ, I told her, but not contemptuously, it was a poor thing to be exalted with notions of the blood of Christ, without sanctification, and those holy graces which flow from Christ's nature.

Article 5.—That one speaking to him of the glorious persons of the Trinity, he replied, "Pish! there is no such thing as persons in Trinity."

Answer.—I profess and believe that there are three persons distinct from each other, yet not so as to prejudice the unity in essence, and so believe the unity as not to confound the trinity of persons. I acknowledge to have told Mrs. Grip, that there was no such expression as persons in Trinity in the scripture, the word person being a school term, difficult for common capacities to apprehend; but never spoke it to prejudice the true notion.

Article 6.—That it was a weakness to be troubled for sin: and Article 7. That he might say any thing to the men of the world.

Answer.—To the best of remembrance, I never uttered, and am certain never held any such maxims, and believe no one dare assert it on oath.

Article 8.—That he (being taxed for keeping carnal company with a woman in London) asserted, that he knew nothing to the contrary, but that a man might keep company with more than one woman.

Answer.—Mrs. Grip saying I was taxed with keeping company, &c. I solemnly protested the contrary; and believing she was tainted with some notions of rantism, I said, there are some that affirm they know nothing to the contrary, but that a man may, &c. (as above) but she seemed not to approve of any such thing; and I believe Mrs. Grip dare not swear I maintained or offered to prove it.

Article 9.—That he hath frequent and familiar converse with angels.

Answer.—I do not see how this article, as mentioned (without expressing whether the communion be visible or invisible) can touch me.

Article 10, 11, 12, 13.—Concerning a vision of a dragon, and the apparition of spirits.

Answer.—I believe none will swear it as expressed in the articles, neither will I confess any particular apparitions untill they are proved, but acknowledge many wonderful apparitions were, about four years since, seen in my house; and what can this hurt me? Was not Job terrified through visions? chap. vii. v. 14. Did not Zachariah, Rev. iii. see Satan stand at the right hand of Joshua? Did not John, v. 12, behold a red dragon in a vision? Was not Christ himself tempted of the devil by voice and visions? Matthew iv. 6, 8. Now the servant is not greater than his Lord, John xv. 20, therefore not exempted from attempts of the devil; neither is Bradfield, or any other place, exempted when God permits; and how can this render me scandalous, ignorant, or insufficient? it rather shews God hath blessed me with faith, and enabled me to overcome these trials by fasting and prayer. Could it be proved I used magic art, I ought to be punished, but it is hard to be prosecuted for the devil's malice.

Article 14.—That Mrs. Margaret Pendar doth think she was bewitched by them of Bradfield.

Answer.—It is hard to be impeached for the thoughts of a discomposed maid; and I do not believe she will say, much less swear it, for before she had her visions I never saw her.

Articles of one Francis Knight of Wallingford, produced against him.

Article 1.—That some of Blewbery, who spake against marriage, said they came then from his house.

Answer.—Their having been at my house does not so much as consequentially prove me guilty.

Article 2.—That his chamber hath been filled with spirits.

Answer.—I suppose no one will swear to this article, since spirits being immaterial cannot fill a room.

Article 3.—That he preached that water-baptism was not an ordinance of Jesus Christ.

Answer.—I affirmed it could not be proved so by way of eminency from Matthew 28, 19, for that by baptism was meant the baptism of the spirit, which was administered to all converts by the disciples, but denied not water-baptism to be a gospel ordinance.

Article 4.—That about 1653, he was commanded by his angel, or from heaven, to give off preaching, and to take no more tithes; but that since he had a dispensation.

Answer.—I believe no one will attest this on oath; and I think that answer enough.

Article 5.—That in 1654, he was taken up into heaven.

Answer.—It is an idle dream, and cannot be proved.

Article 6.—That he cursed the people of Bradfield in his pulpit, and their posterity for ever.

Answer.—It was proved before the committee of plundered ministers by three witnesses, that I did not curse the people of Bradfield, as mentioned in the article.

Article 7.—Concerning the little horn, mentioned Daniel 7, to be Christ.

Answer.—I said in the mystery, in regard of its power, we will apply to the power of Christ in a Christian, who is often resembled to the horn of David, and the horn of Salvation.

Article 8.—Concerning Goodwife Pocock's singing hymns and spiritual songs.

Answer.—She thinks it a special gift of God; but it does not directly concern me.

Article 9.—Concerning the same person's coming to Colonel Evelyn's, and saying she had a word from God, viz. Have nothing to do with that just man.

Answer.—She owns the words, thinks me a just man, and believes Colonel Evelyn will one day know it was good counsel.

Article 10.—Concerning Mr. Snelling and his wife coming to his house, &c.

Answer.—There is no truth in it.

Article 11 and 12.—Concerning the sending his man Bolt in an uncivil manner for Mr. Forster, with his speaking of strange things there to be seen; and of his telling Mr. Forster he should see very wonderful things, &c.

Answer.—Mr. Forster dares not swear to the particulars; and being of so little consequence, it might have been omitted; besides, Bolt asserted on oath before the committee of plundered ministers, that it was not I but his mistress sent him for Mr. Forster and his wife to come to my house.

Article 13.—Concerning Goodwife Pocock's coming to Mr. Forster's, and saying the Doctor had fought with and overcome an evil spirit; and that the family had been strangely acted, the power taking some of them in one part, some in another; and that they spake glorious things.

Answer.—Mary Pocock deposed upon oath before the aforementioned committee, she saw no spirits; and I was acquitted by them, because they could make nothing of it.

Article 14.—That Mrs. Flavel was in a trance, and in it saw the philosopher's stone, which she knew to be the divinity in the humanity.

Answer.—I admire this should be charged to prove me insufficient, &c. when it is affirmed of another, and does not touch me.

Article 15.—Touching Saywood's depositions of the birth of a child, and one being in travail.

Answer.—Three witnesses affirmed on oath, before the said committee, that there was no such thing, nor any cry, but of people at prayer.

Article 16.—That in his house the new Jerusalem hath been seen to come down from heaven, and that in it was a globe, in which globe was eternity, and in that eternity all the saints.

Answer.—I believe none dare attest they heard this spoken by any of my family.

Article 17.—That in his house God hath been seen face to face, &c.

Answer.—Before I speak to this, I would see who dare swear it, (as it is stated) or what proofs brought.

Articles exhibited against him by some of his Parishioners of Bradfield.

Article 1.—That Dr. Pordage, about eight years since, brought Mrs. Flavel behind him to one Goodman Loader's near Hounslow; and asked if she (being sick) might have entertainment; but never owned she was with child.

Answer.—It is nine years ago; and I did not say she was sick; neither did she deny her being with child.

Article 2.—That in a short time she fell in travail, and had then no husband, as the world knew of.

Answer.—It was four or five months after her being there, and she did then own to the people, that she had had a second husband; and when she has occasion, can produce sufficient witness of it; though she went not by his name, because of a law suit then depending; and (having concealed it) she has thought fit to be called by the first husband's name ever since.

Article 3.—That he christened the child Hannah; and came alone often to visit her.

Answer.—Having urgent business in London in term time, I called three times in three quarters of a year, and no more.

Article 4.—That the child being put to nurse, the Doctor moved Mrs. Flavel to Kensington, and paid Loader for her being at his house; and that some time after the nurse's husband wrote to the Doctor that he was twenty weeks pay behind; on which he was paid and the child taken away.

Answer.—I knew not when she removed; neither did I ever agree with Loader, or with the nurse or her husband; or pay either of them a penny; nor was any such letter wrote, as the nurse and her husband can testify.

Article 5.—That a little after Mrs. Flavel and the child came into the Doctor's family; and that Mrs. Flavel being often asked whose child it was, always answered it was a dear friend of her's, but never named whose.

To this article the Doctor says only, It is false.

Article 6.—That they changed all their names, the Doctor was called Abraham, his wife Deborah, the child Hannah was called Ruth, old Goodwife Pocock, Rahab, &c.

Answer.—We own and subscribe our names as my answers testify; and if we do call each other by scripture names amongst ourselves, I suppose it no crime.

Article 7.—That he is extremely covetous, taking five shillings at a time to marry one.

Answer.—Mr. Fowler (my accuser) has, for the same thing, oftener taken ten than five.

Article 8.—That his preaching doth not tend to edification.

Answer.—Christ's ministry was not ineffectual, because some of the audience did not believe; and there are many in the neighbouring parishes who have been edified, refreshed and converted by my preaching.

Article 9.—That he is very ignorant and insufficient for the work of the ministry.

Answer.—I believe the exhibitors of this article are ignorant and insufficient to judge of it, and hope these my judges will not make their own will their rule, but act according to reason.

Though I think my answers sufficient to clear me from any guilt, in the sight of judicious men; yet as most of the things of any moment are pretended to be said and done before the year 1651, I crave the benefit of the general pardon.

JOHN PORDAGE.

Then the commissioners adjourned to the 30th of November, and ordered Dr. Pordage to attend them that day at the Bear in Speenhamland; but the Doctor falling sick, (of which they had notice) another summons was sent, that he should attend the 7th of December next, at the Bear in Reading, with his witnesses.

Here follows the substance of the depositions given against and for him, on the first charge, together with some remarks, observations and answers of the Doctor himself.

1. Mr. Tickle, minister of Abingdon, deposed, that he heard Dr. Pordage deliver in the pulpit at Ilsley, "that the fiery Deity of Christ mingleth with our flesh." And said further, that on the deponent's charging him with blasphemy, the Dr. said, "he meant not with our corruption, but with our flesh," holding his hand over the pulpit, said again, "he did not mean our flesh, but with the soul of Christ," and used no limitation.

Mr. Francis Pordage, minister, Mrs. Mary Pocock, and Robert Bolt, offered to depose, that the Dr. explained himself before the committee of plundered ministers in the same manner as in his former answer, as to this article; but they not being present at the sermon, their evidence was rejected.

2. Mr. Tickle deposed, that the Doctor delivered in his said sermon at Ilsley, "that the imputative righteousness of Christ is a sapless righteousness," without any exception or limitation.

Roger Stephens deposed, he was at the sermon, and heard those words delivered as an entire sentence, and only so; and that the Doctor said also, "you are not to look to this, but to the fiery Deity burning in the centre of our souls, consuming and destroying sin there," but that these did not immediately follow the other words, but were further off in the sermon.

Mary Pocock (witness for the Doctor) deposed, that she was at Ilsley and heard the sermon, in which the following words were delivered together, to make up one sentence, viz.: "That the righteousness of Christ was sapless, except the fiery Deity of Christ be in the centre of our souls, burning up our lusts and corruptions."

Then the Doctor offered three witnesses to testify his explanation of this article before the committee of plundered ministers; but they were rejected. The Doctor next offered to produce several of his constant hearers to testify that the scope of his ministry was contrary to this charge, and called Mary Pocock, who was refused; as being one of his own tribe. Then Richard Higgens was called and sworn,

Who deposed, that the Doctor's usual preaching was not against the due application, but misapplication of Christ's righteousness; and being asked what he had heard of the imputative righteousness, he said he had forgot; but had a note to refresh his memory, which

he produced, and acknowledged he had it from the Doctor. For which the Doctor was severely censured by the court.

Here Mr. Fowler affirmed, that the deponent denied the Bible to be the word of God; to which the deponent answered, that he never denied it to be the written word, but had said it was not the essential word; and the minister of his parish being present, acknowledged he had before given the same distinction to him, and that he believed the deponent to be an honest sober Christian.

The Doctor had three other witnesses, which he proposed to make use of for proof of the scope of his doctrine; but the court thought it merely dilatory, and refused to hear them.

3. Mr. Tickle deposed, that the Doctor said, "that the discoveries of the sinfulness of sin, the terrors of the law, &c. were but flashy discoveries."

To this the doctor offered no witness, only answered, that he thought them but preparatory to the more powerful workings of God, so but weak in comparison of the more full operations of God upon the soul.

4. Mr. Tickle deposed, that the charge in this article, viz. "that the liberty," &c. was fully delivered by the doctor in the express words.

Dr. Pordage affirmed he expressed himself thus: That the aforementioned freedom did not only consist in freedom from the guilt of sin, &c. but also in the enjoyment of the spirit of Christ in the centre of the soul, there purifying our natures, mortifying our lusts, and restoring us into the image of God.

5. Mr. Tickle deposed, that the doctor delivered these words, viz. "that by male and female," &c. as his own judgment, as near as the deponent can remember.

The doctor affirmed that he urged this as the judgment of a learned Rabbi, viz. that by male and female might be shadowed forth the deity and pure humanity, which by union became one, the male representing the deity, and the female pure humanity, &c.

6. Mr. Tickle deposed, that Dr. Pordage being in discourse with Mr. Pendarvis, said, without any manner of limitation, "that the gifts and graces of the spirit are but flesh."

The doctor here offered an examination of Mr. Pendarvis on oath to be read; wherein he deposed, that the doctor explained himself in saying, "by flesh he meant weak in point of trust for eternal salvation," but it was denied being read.

7. Mr. Tickle deposed, that in the aforesaid discourse the doctor said, "that Christ is a type, and but a type," and endeavoured to prove it out of Peter, where he is called *τύπος*.

Roger Stephens being sworn, deposed, that the doctor said Christ was but a type, and went to prove it by 1 Peter 2.

Then the doctor again offered Mr. Pendarvis's examination, in which he deposed, that the doctor (after saying Christ was but a type) presently waived the word "but," and only affirmed, "that he was a type." But this was not allowed as evidence.

Mary Pocock was called, who being sworn, deposed, that she

heard the doctor say the words, and that he proved it out of Peter, and that the doctor likewise said he would not stand to the word "but."

John Pordage, his son, was sworn, and deposed, that the doctor said, the expression "but" was *lapsus lingue*.

To the eighth and ninth Mr. Tickle deposed, that he heard Dr. Pordage maintain and defend, as his own avowed judgment, "that Christ was not God, and that he was not Jehovah," and that no such expression was used, viz. "the Father," as mentioned in the doctor's answer.

Mr. Trapham, one of the commissioners likewise deposed, that the doctor denied "Christ to be God." And that Mr. Blagrove saying, if he denies that, we must take further course with him; the doctor replied, "he is not Jehovah;" but being confuted by Mr. Tickle, the doctor then said, "he is not God the Father."

Then the doctor produced Mr. Francis Pordage and Mary Pocock, who were sworn.

Mr. Francis Pordage deposed, that he heard the dispute betwixt Mr. Tickle and the doctor, wherein the doctor denied, &c. and put Mr. Tickle on the proof of it; which, when Mr. Tickle had done, the doctor replied, "he is not God the Father;" and deposed further, that he heard him clear himself in a sermon before the committee at Reading, "concerning the Trinity, and that Christ was not God," and asserted the discourse then delivered to be his avowed judgment.

Mary Pocock deposed, that after Mr. Tickle had brought proofs to confirm his aforesaid assertion, that Dr. Pordage said, "he is not God the Father," but that she never heard him deny that "he was God the Son."

Then the doctor offered two witnesses to prove that he expressed himself in the said sermon after this manner, viz. "that Jehovah taken *laté*, including the trinity of persons, they are all Jehovah; but taken *stricté* for God the Father, Christ is not Jehovah; and that the doctor protested that the thought of denying the deity of Christ never entered his soul," and that he was thereon cleared by the vote of the whole committee: But the commissioners refused them, saying, they had nothing to do with the transactions of other committees, but would proceed on the proofs of present witnesses.

The doctor then urged that they would hear the evidence of four witnesses then present, relating to the tenor and scope of his doctrine since that dispute; but the commissioners said they were in haste, and that such testimony was to no purpose, therefore rejected it.

To the proof of the second charge exhibited by Joseph Cook, the commissioners set up Mr. John Lewyn, minister of Hamstead, Norris, and Mrs. Lewyn, his wife; but neither of them could depose any thing relating to the first article.

To the second article Mrs. Lewyn deposed, that the doctor told her, when she had two children, that since she had one for her husband, and another for herself, she

had enough; and that she answering as it shall please God, the doctor replied, pish, it is as yourselves will, but that he never advised her to live from her husband.

To the third article Mr. Lewyn deposed, that (in a discourse of religion) the doctor quoted Genesis, and said, he made them male and female, but whether he meant Adam singly, or had any mental reservation, the deponent knew not.

To the fourth article Mr. Lewyn deposed, that Dr. Pordage and he having discourse in London, the doctor asked the deponent if it would not be terrible to see apparitions, but did not mention any thing of seeing any himself.

To the fifth article there was no evidence given, therefore we shall only refer the reader to the doctor's answer, before inserted, and mention his general answer to the other articles, viz.

That he preferred virginity to matrimony, a single life to a married state, and said (after marriage, 1 Cor. vii. 38) people might abstain from the pleasures of it by consent, and live as single, though in an united form: that it was his opinion and practice so to do, according to Matt. xix. 12, and that he believed it requisite to use prayer and mortification for obtaining the gift of continency, before they involved themselves in the entanglements of the world; and that it would be happy if those who did marry would consider and distinguish betwixt adulterous and bestial marriages, and those that are pure and holy, and by that means lawful and honourable.

The commissioners then called for lights to proceed in examining witnesses to the third charge; but the doctor objected it was late, and he had several other witnesses to produce to the former charge; but the commissioners persisted in it, and said they would make an end that night.—Then the doctor urged that he had not dined, was weak for want of refreshment, and desired it might be put off till morning; but they refused (only permitting him to withdraw for a short time). The doctor fell sick, and went to bed, which obliged them to stay till morning.

The Proofs of the third Charge.

Mr. Fowler deposed, that Mr. Daniel Blagrove, jun. told him,

that he the said Blaggrave heard Dr. Pordage say, "that Christ was not perfect."

The doctor offered three witnesses to testify, that at his coming from London they heard him relate this as spoken by Mr. Erbery, as mentioned in his answer to this article; but it was thought impertinent by the commissioners, and so rejected.

Mr. Fowler deposed, that he asking Mr. Daniel Blaggrave, jun. if he heard Dr. Pordage speak the words expressed in the third article, Blaggrave answered, he heard him speak to that purpose.

The doctor objected that this was only hearsay, and he had already given in his answer; but as a further testimony that he never held such principles, desired they would hear some witnesses touching the scope of his ministry as to this particular; but the commissioners judged it not material, and would not hear them.

Mrs. Grip deposed, that about four years since she heard the doctor say the very words mentioned in the fourth article.

The doctor urged, that besides the answer he had before given in, that there was but one witness to the proof of this article, and that he had several witnesses to testify that she was a woman of a very indifferent character, and that in his sermons he had often expressed that the blood of Christ was of a cleansing, redeeming and justifying nature; but the commissioners refused to hear his witnesses.

Mrs. Grip deposed, that about two or three years since the doctor uttered those very words in the fifth article, without any limitation or explanation whatsoever.

The doctor here likewise refers to his answer, and objects that she is but a single witness, and desires he may have the liberty to produce witnesses that the scope of his doctrine has been directly contrary to what he is here charged with; but it was denied.

Mr. Woodbridge, minister of Newbury, deposed, that Mr. Twiss of Dorchester told him, that Dr. Pordage maintained to him, "that he was no Christian that could not commit the greatest sin, and not be troubled for it."

The doctor observed this was but hearsay, and assured the court that he knew not, nor ever saw Mr. Twiss, and that he never held any such opinion, nor ever uttered any such expression, it being diametrically opposite to his principles.

To the proof of the 7th article there was no witness produced.

Mrs. Grip deposed, that about three or four years ago the doctor spoke words of the like import as those mentioned in the eighth article, but cannot remember the express words, and that he spake it as his own judgment, and not as that of another man's.

The doctor carped at the validity of her evidence, because she could not remember the express words, referred to his answer, and said it was the principle of the ranters, and contrary to his sentiments.

Mr. Fowler deposed, that Mr. Daniel Blaggrave, sen. and Mr. Daniel Blaggrave, jun. had both told this deponent that they were able to say much in relation to "the doctor's converse with angels," and that Mr. Blaggrave, the elder, said, he believed the doctor would not deny it before the commissioners, and that (they having then been talking of Mrs. Pindar's visions, seen with a bodily eye) the deponent

did believe Mr. Blagrove meant, "a visible converse with angels." And Mr. Fowler further deposed, that he had been credibly informed that the doctor had seen the vision of Mr. Blagrove, sen. being a bright vision.

The doctor acknowledged "he had daily communion and converse, (but did not say whether visible or invisible) with angels;" and said that he knew no scripture that spoke against it, and why might not God comfort some precious saints by affording such a heavenly converse? and that if Mr. Fowler had no sense of it, he ought not rashly to judge those who had.

Mrs. Grip deposed, that the doctor told her there were many spirits hovered and made a noise about his window, and that the doctor said he told the company that but one should come in at a time, and that a dragon with a long tail, great eyes and fangs, came in and spit fire at him, but that his angel, in the doctor's own shape, clothes, band and cuffs, stood by and protected him. She further deposed, that the doctor likewise told her, that Mrs. Pordage and Mrs. Flavel had likewise their angels standing by them, and that the children saw the spirits, and (not being afraid after they had fasted and prayed) said, "look there, father."

The doctor acknowledged before the commissioners, that he and some of his family had seen many dreadful apparitions in his house, as a dragon with a long tail and great teeth, and several others both of good and bad angels, but denied the appearance of his own angel in his clothes, &c. or in any other visible shape; but that they had ceased coming for about four years past.

Mrs. Grip's daughter likewise deposed, that she heard the doctor give the same relation of the dragon, and his own angel in his cuffs, &c. and that he said the spirits came into his chamber, drew the curtains and looked on him, which at first affrighted them, but after being used to them they did not mind it; and several other things which the deponent could not then remember.

Elizabeth Barnwell, late servant to the doctor, deposed, that she had seen something light like a star in the red chamber at the doctor's house; that it was by the leg of the bed, and no other light in the room; and that she had several times heard music in the kitchen, and in her mistress' closet; and though she believed the music to be near her, yet never saw any instruments or musicians.

She further deposed, that Mrs. Flavel usually lay in the doctor's bed-chamber, during the time of the deponent's service, being about a year and a quarter; but said she never lived in such a pious family, and thought she never should again.

The doctor said, that from these apparitions (which had excited him to more frequent fasting and prayer) his enemies had scandalized him with the name of conjurer and sorcerer; and that Mr. Ford, in his sermon at Read-

ing assizes, had uttered these words, viz. "that there is one of the most eminent church livings in the county possessed by a blasphemer; and in whose house the devil is as familiar as any of the family; and shall the horns of these beasts never be pared off by the civil magistrate?"

Mr. Fowler was again sworn, and deposed, that Mrs. Pindar told him (the deponent) that she heard a great noise of drums and trumpets at Mr. Blaggrave's house; and that doctor Pordage told her it was an alarm to the spiritual war; and that one night the vision of young Mr. Blaggrave came to her bed-side, whose hand felt cold; and that Dr. Pordage said it was a sign he began to be cold to vanity; and that she asking the doctor the meaning of these visions, he replied, "We do not use to reveal one another's visions."

Mrs. Blaggrave, on behalf of the doctor, deposed, that she never heard Mrs. Pindar say that she was bewitched by them of Bradfield; but that she said her visions were from God; and that she (Pindar) never spake with the doctor in her life; and deposed further, that Mrs. Pindar told her (the deponent) that Mr. Fowler had examined her touching her visions; but said she was sure she had said nothing prejudicial to the doctor; and that Mr. Pindar had told the deponent, that when his wife came to London, she told him, that were it to do again, she would not say what she had said to Mr. Fowler, believing it was a snare or a trap; and deposed also, that it was another person who was a dying to vanity, and not the doctor.

John Grip deposed, that Mrs. Pindar told him that Dr. Pordage said he had power to bestow the gifts and graces of the spirit on whom he pleased; and that at another time Mr. Blaggrave said to his wife (the deponent being present) that the doctor held strange opinions, contrary to the word of God, as "that Jesus Christ was not God, that he was but a type, man and not God, a shadow and not the substance."

Mrs. Blaggrave deposed, that the doctor never discoursed her, unless she first began with him; and if he did ever confirm her in any thing, it was not disagreeable to the word of God.

Then the doctor produced a letter written by Mr. Blaggrave, purporting,

"That he understood the contents of John Grip's deposition; and affirmed he should be at any time willing to testify on oath that it was false; and that he had often heard the doctor solemnly avow, and had given under his hand a quite contrary opinion; and that the doctor had given him full satisfaction, relating to the divinity of Christ, and of other matters of faith of high concernment." But the court refused to have it read.

Next follows Loader the smith's deposition, relating to the doctor's bringing Mrs. Flavel to his house, her lying in there, &c. as has been before related; and Mrs. Flavel appeared in court, in obedience to a summons that had been sent her, but refused to answer any of the questions.

that were asked her, saying, if they had any positive crime to charge her with, she would give them an answer by the mouth of her lawyer; on which the commissioners threatened to send her to prison, but she refused to be examined.

To prove his ignorance and insufficiency, George Haslet, of Bradfield, weaver, deposed, that the doctor used the following words, viz.

“That it was a vain thing to trust in the blood of him that died at Jerusalem 1600 years since, or more, unless it were acted in me or in thee, for that was but in the type, the substance must be fulfilled in us; and that Christ must be crucified in us, we must have the Jews and Pilate to put him to death in us; otherwise it was a vain thing to believe in him that died at Jerusalem 1600 years since without us.”

And he further deposed, that about a month since, in a sermon at Bradfield church, the doctor said, “that doubtless the apostles, by that text, ‘Know you not that your bodies are the temples of the Holy Ghost?’ did not mean these earthly bodies.”

And he deposed likewise, that in another sermon, the doctor delivered these words, “that by that text, ‘Gen. xviii. 19. I know him that he will command his children and his household after him,’ was not meant the outward household of Abraham, but his inward household, his will and affections, which he was lord paramount over; and quoted the text in Joshua, ‘As for me and my house we will serve the Lord,’ which he said was the inward house and not the outward.” And that the deponent judged the same contrary to the mind of the Holy Ghost.

The doctor said, that in the whole scope of his ministry, he usually gave the literal and allegorical sense of the scriptures; and that the deponent mistook, for that he had before opened the historical part, and was come to treat of the mystical interpretation, in making a spiritual use of the scriptures, and applying them to the inward man; and desired time to bring in his witnesses to prove it; and urged that it was not justice to take this evidence against him just before they designed to give sentence, and not allow him time to make his defence by the testimony of other witnesses; and the doctor objected to this witness, that he was a drunkard, and that (as he had not wrote this down) it was improbable he should deliver it verbatim; and that a small mistake in the words might make a great alteration in the sense.

Then R. Saywood was set up, who deposed, that on the ninth of September, 1650, he heard a mournful cry in Bradfield parsonage house, like one in extreme pains; and that going the next day to Mr. Francis Pordage at Stanton-Dingley parsonage, he asked the deponent what he thought of that noise he heard at the doctor’s;

and the deponent answering he could not tell, the said Mr. Pordage told him, "that the Lord was about a great work in this kingdom, and to this nation; and that the cause of this cry was one in travail, but now she was delivered of a man child, and he and others could witness it."

Mr. Francis Pordage being sworn, acknowledged he was so unadvised to give that account to Saywood; and being asked by the court who was in travail, and what became of the male child, answered, it was Mrs. Flavel; and that it was the birth, death, and resurrection of Christ in his nature. Being further asked how that of Mrs. Flavel was so great a work that God was doing to this nation, denied that he said it, though before he acknowledged it, and deposed that it was not a natural birth, it being nothing but the groanings and intercession of the spirit in her prayer.

Mr. Tickle sworn again, deposed, that Susannah Day could not appear (by reason of sickness) according to the summons, but that she had told the deponent that the last time she was at Dr. Pordage's, that they told her her eyes were opened, and that she then saw the new Jerusalem come down from heaven, being a city four square, with borders and precious stones; and that it was not her fancy only, but that she saw it really; and the doctor's daughter saw two angels holding a golden crown over her head.

To this evidence the doctor made no answer.

Then the doctor offered a protestation in writing, that he disowned and rejected the positions in the first charge, and avowed and maintained the contrary principles, and desired it might be publicly read before the court and audience; but after some private consultation, the commissioners suppressed it; and acquainted the doctor, that if Mr. Starkey (his counsel) had any thing to offer in his behalf, he had liberty to speak. Whereupon Mr. Starkey summed up the evidence, and made some observations upon it, in behalf of the doctor; shewing, that if they proceeded by the rules of law, there was not sufficient grounds for censuring the doctor.

Then the doctor was ordered to withdraw; and after about an hour and a half's debate among themselves, the doctor was called in again, and the register ordered to proceed to publication; whereupon the depositions on both sides were read; and Mr. Ford made a speech in justification of the proceedings and intended sentence; and observed, that this being a court of equity and of ecclesiastical jurisdiction, the commissioners might receive such evidence as had been given against the doctor, as good and sufficient proof, though not esteemed so in the courts of law; for that they were not tied up by statutes and forms of law, but proceeded according to justice.

After which the doctor desired he might reply to some things which had been misrepresented by Mr. Ford, but he was not permitted; he then desired they would receive and seriously peruse a paper, which he had drawn up in his defence, before they proceeded to sentence; but it was returned without being read, and the doctor, &c. ordered to withdraw.

Being called in about two hours after, Mr. Lee (a minister) began a very formal speech, importing the concern of the court in passing sentence against him, and said, though he did not think him guilty of maintaining those horrid tenets, yet he said they must proceed *secundum allegata et probata*.

Then the register was commanded to do his office, who openly read the sentence.

Berks Sessions.—By the Commissioners appointed by Ordinance of his Highness the Lord Protector and his Council, for ejecting of Scandalous, Ignorant, and Insufficient Ministers and Schoolmasters.—Reading, December 8, 1654.

“Whereas several charges have been exhibited to us against Dr. John Pordage, Rector of Bradfield, in this county, who hath given in several answers in writing thereunto; and thereupon we have proceeded to examination of several credible witnesses upon oath, for proof of the said charges, in open court; which witnesses the said Doctor hath been permitted fully and freely to cross-examine. And the said Doctor hath been required to produce his witnesses for his justification, and to bring in his interrogatories upon which he would examine his witnesses, and hath had day after day assigned him for that purpose, but notwithstanding hath peremptorily refused so to do, persisting in his own way, and refusing to observe our direction in his proceeding, and hath publicly, by his evil and contumacious expressions, slighted and affronted the said commissioners, and instead of producing his interrogatories in writing, according to our order, he hath now verbally offered several questions, which he desires to have propounded to several of his said witnesses; which the commissioners, upon consideration, have judged impertinent to clear him from the matters charged against him, but merely to delay and weary out the said commissioners; and therefore they have examined only to two of the said questions, which they conceived might somewhat tend to his justification. And upon full hearing what the Doctor could say, and Mr. Starkey of council in his behalf, upon the whole matters, and upon due consideration, it appeareth that the said Doctor is guilty of denying the Deity of Christ, and the merit of his precious blood and passion, and hath asserted and maintained that Christ was a type, and but a type, and not perfect, and that his imputative righteousness was sapless, and several other hellish opinions, and is otherwise scandalous, as by the said depositions may

more fully appear. And it is likewise declared, under the hands of six of the said commissioners, and several ministers, their assistants, that upon the matters proved against him, the said Dr. Pordage is ignorant, and very insufficient for the work of the ministry. It is therefore ordered that the said Dr. Pordage be and is hereby ejected out of the rectory of Bradfield aforesaid, and profits thereof. But the said commissioners do grant him time to remove himself, family, and goods and chattels, out of the said parsonage-house, till the 2d of February next, and further time to remove his corn out of the parsonage barns, till the 25th of March next.

COLONEL JOHN PENRUDDOCK,

FOR HIGH TREASON, APRIL 19, 1655.

Drawn up by Himself, at the Request of a Friend, a little before his Execution.

COLONEL PENRUDDOCK was arraigned, together with Mr. Hugh Grove, Mr. Richard Reeves, Mr. Robert Duke, Mr. George Duke, Mr. Thomas Fitz-James, Mr. Francis Jones, Mr. Edward Davis, Mr. Thomas Poulton, and Mr. Francis Bennet. The indictment being read, the Colonel, in behalf of himself and his fellow prisoners, said he thought the indictment was not according to law, and desired they might have counsel assigned them, to argue the defects and errors it contained. He said counsel had been allowed to Lilburne, and Rolf a shoemaker, and that it was hard if freeborn English gentlemen could not be allowed the same privilege that their inferiors had before them.

Mr. Attorney answered, he must plead Guilty or Not Guilty, or sentence would be pronounced against him; that counsel could not be allowed, and if he thought to save his estate by standing mute, he was mistaken.

The Colonel then demanded if he should have counsel allowed him if he did plead, but was told by Mr. Attorney, that the court could make no bargains with him; and at length the Colonel, at the instance of the other prisoners, pleaded Not Guilty; after which he demanded to be allowed counsel again, but it was peremptorily refused him.

Then the jurors were called, of whom the Colonel

challenged twenty-four; and twelve being sworn, the other prisoners were taken from the bar, and the Colonel was tried singly. He desired a copy of his indictment, and time to prepare for his defence till the next day, both which were denied; and he was told the court expected he should enter upon his defence immediately.

Then he said there could be no treason in this nation but what was founded upon common or statute-law; and he did not observe that this indictment was founded upon either; and that there was no such thing in law as a protector.

Mr. Serjeant Glyn told him he struck at the government, and that he would fare never a whit the better for this speech.

The Colonel replied, his life was as dear to him as this government was to any of them; and he observed, that it was said at the latter end of the indictment, that he was guilty of high treason, by virtue of a statute in that case made and provided. He desired, therefore, if there was such a statute, they would let it be read, for he knew of none such. Then he quoted Bracton, where he says, *Omnes sub rege, et ipse nullo nisi tantum Deo*, &c. and said, that he had always been for the king; and in the Parliament Roll, No. 7, it is said, "Whoever shall refuse aid to the king, when war is levied against him, or against any that keep the king from his just rights, offends the law, and is thereby guilty of treason." And "that all men who adhere to the king in personal service are freed from treason by law," *Rex et Consuetudo Parliament, 11 Hen. VII. c. 1.* And he thought it strange that there should be a statute which made his adhering to the king, according to law, to be high treason notwithstanding; and therefore he prayed again that it might be read.

Mr. Attorney told him he had not behaved himself so as to expect any favour of the court. The Colonel replied, he did not ask it as a favour, but as his right; and if they would not do it for him, they ought to do it for the sake of the jurors, that they might not give their verdict blindfold, to the hazard of their souls.

Then Mr. Attorney made a long speech, aggravating the charge against the Colonel, and telling the jury he had been four years in France, and that he held corre-

spondence with the king his master, of whom he had learnt the Popish religion, and would introduce Popery, &c. That he endeavoured to bring in a debauched, lewd young man, and engage the nation in another bloody quarrel; and that if he had not been timely prevented, he would have destroyed the jury and their families, &c.

The Colonel interrupted Mr. Attorney, and told him he had heretofore been counsel for him, and then made his case better than it was; and that he perceived he had the faculty of insinuating falsehoods; that he had put him in a bear-skin, and now designed to bait him; but that he saw a gentleman in court, (meaning Captain Crook, to whom the Colonel surrendered upon articles) who ought to have screened him from this prosecution. [Here Captain Crook stood up as if he designed to have replied to the prisoner, but sat down without saying any thing.] Then the witnesses were called, but the Colonel did not think it worth his while to give us their evidence; only he observed, that it being demanded of the cryer of Blandford what words the Colonel used at the proclaiming King Charles in the market there, he said, the Colonel declared for King Charles the Second, and settling the true Protestant religion, and for the liberty of the subject, and privilege of parliaments. From whence the Colonel observed, that it was not the Popish religion, as Mr. Attorney said, that he would have brought in, but the true Protestant religion. The Colonel also insisted, that they could charge him with no more than a riot, and required the judges to be of his counsel in that matter, according to their duty; whereupon Commissioner Lisle told him he should have no wrong done him; but the Colonel says he meant no right, he thought, if he might judge by his behaviour.

The Colonel added, that if he had seen a crown upon the head of any person, he might have known what was treason, and the law might have taken hold of him, as this kingdom was a monarchy; but here was no such landmark in this case; and he did not know how he could be guilty of what he was charged with. Besides that, he was charged with committing treason at South Moulton, in Devonshire, and they gave evidence of facts at Sarum and Blandford.

Then he addressed himself to the jury, and desired they would observe how zealously many untruths had been urged against him; and that he had made it appear there could be no treason but against the king; and that the law knew no such person as Protector, though Mr. Attorney pretended to quote a statute for it; and that they should not, by the splendour of the court, be betrayed into a sin of a deeper dye than their scarlet, by drawing his blood upon their heads. He bid them look upon him, and said he was the image of his Creator, and that stamp of God's which was upon his visage, was not to be defaced without an account to be given for it; that he had insisted on his being tried by those laws which had been established by the wisdom of their ancestors, but he was tried by a law that was cut out by a rebellious sword; and if they did not

look well to it, the sheets on which it was recorded might serve for some of their shrouds; and he bid them remember, that the last parliament held, that the legislative power could not be out of themselves; that seventeen or twenty of that very county were of that opinion, and deserted the House; and if they found him guilty, they would bring them into danger, and consequently themselves, and their blood might run in the same channel with his; that at most they could make but a riot of the matter; however, if they found it specially, they would in some measure acquit themselves, and throw the blood that would be spilt upon the judges. Then he bade them consider of it, and prayed that God would direct them for the best.

The jury being withdrawn, after a quarter of an hour's recess, brought the Colonel in guilty.

Monday, April 23.—The Colonel was brought to the bar again, with twenty-six other gentlemen, who were prisoners; and the court asking him what he could say why sentence should not be passed upon him, he said he could have offered his articles of surrender, but did not think it proper in this court; and he should only say, that if the Protector would give him his life, he should return him thanks, as he should the court, if he found favour, and if he did not, he should forgive them.

Then Mr. Serjeant Glyn, after a most bitter speech, pronounced sentence upon the Colonel and the rest of the prisoners, viz. that they should be drawn, hanged, and quartered; which the Colonel said he thought a very odd performance of the articles between unworthy Captain Crook and him, wherein he had stipulated for life, liberty, and estate, which he could prove, and would die upon. And he complains of Colonel Dove, the sheriff of Wiltshire, who incensed the jury against him, by telling them of the incivilities he received from the Colonel's party; and adds, that every man in his place he observed, took great pains in carrying on their master's work. These, the Colonel says, were the most material passages that he could on the sudden recollect of what passed at his trial.

MAJOR GEORGE STRANGWAYES,

PRESSED TO DEATH, 24TH FEB. 1657.

Mr. George Strangwayes, was the second son of Mr. James Strangwayes, of Mussen in Dorsetshire, a gen-

tleman of an ancient and unblemished family. He was a person that had a brave and generous soul, in a stout and active body ; being tall of stature, and framed to the most masculine proportion of man. The virtues of his father rather seemed to improve than degenerate in the son, till he was hurried on by an ungovernable passion to commit the horrid fact which we are going to relate.

As his constitution in his youth made him fitter to follow Mars than the muses, he attained to the degree of a major in the service of King Charles I. which military office he executed with a great deal of bravery and gallantry, during the whole course of the civil war ; yet was he not a stranger to those arts that finish a gentleman ; for (as Dryden says of Lord Roscommon) he had made both Minerva's his own. In the most important consultations he had always a head as dexterous to advise, as a heart daring to act. Only in love he appeared either unskilful, or unsuccessful ; for he was never married.

The father of Mr. Strangways died about ten years before the unhappy accident happened, which brought destruction upon his son : at his death the major was left in possession of Mussen farm, and his eldest sister, Mrs. Mabellah Strangways, was constituted executrix by will.

This sister, being then an ancient maid, rented her brother's farm, and stocked it at her own cost ; engaging herself to him in a bond of 350*l.* which she borrowed towards the procuring of the said stock. The Major, presuming upon her continuance of a single life, and expecting that the greatest part, if not all of her personal estate, would in time revert to him as her heir, entrusted her, not only with the bond, but also with that part of the stock, and such utensils of the house, as, by his father's will, properly belonged to him. His reason for doing this was, that they would be more secure by passing for hers, forasmuch as his whole estate was liable to sequestration ; by which, at that time of day, a great many thousand loyal gentlemen were ruined. Sad times, indeed, when honesty, which, by those who have just notions of providence, is esteemed a common preservative against calamity, was the principal means that

made people obnoxious to it; but this was not the only age, in which that noble principle has been out of fashion.

His estate being thus in a fair probability of being preserved from those vultures of the commonwealth, who had then the administration of public affairs, he lived for some time very happily with his sister, of whose prudence and discretion he had a very high opinion, at his farm of Mussen.

But all on a sudden the scene altered, and she whom he thought sufficiently proof against all inclinations to matrimony, began to express some affection for Mr. Fussel, a gentleman well esteemed at Blandford, the place of his residence, and of much repute for his eminent abilities in matters of law.

Mrs. Mabellah Strangways had now contracted an intimacy with Mr. Fussel, and she made it the least part of her care to disguise her sentiments concerning him; so that it was not long before her brother came to a perfect knowledge of their mutual resolutions. Whether it was that he had any former dislike to the man, or that he imagined one of that profession might injure him in his property; or whether it was only the being disappointed in the hopes he had conceived of enjoying after his sister the whole substance of the family, is not easy to determine; but certain it is, that he no sooner heard of a proposal of marriage between this gentleman and his sister, than he shewed himself absolutely against it, and took an opportunity of telling his sister privately, how much he disapproved her design. Mrs. Mabellah, as freely told him how stedfast she was in her purpose; upon which he broke out into the most violent expressions of passion, affirming with bitter imprecations, that if ever she married Mr. Fussel, he would certainly be the death of him soon afterwards.

These family quarrels soon occasioned a separation between this unhappy brother and sister; and the rupture still increased by mutual complaints between them. She pretended, that he unjustly detained from her much of the stock of the farm, which, either by her father's will, or her own purchase, was lawfully hers; at the same time she denied that ever she sealed the afore-mentioned bond, insinuating, that it was only a forgery of her bro-

ther's. The Major, on the other hand, cried out as loudly against his sister, accusing her with nothing less than a design to defraud him of part of his estate, besides the money due by the bond. These were the differences, which first fomented a rage that was not to be quenched but by blood.

Soon after their parting, Mrs. Mabellah and Mr. Fussel were married, and the grievances between the brother and sister commenced a law suit; for the prosecuting of which, as well as for the carrying on of several other causes which he was employed in, he being a man of great business, Mr. Fussel was come up to London, it being Hilary term, at the unhappy time when he lost his life, in the following manner:—

Mr. Fussel lodged up one pair of stairs, at the sign of the George and Half-Moon, three doors from the Palsgrave's Head Tavern, without Temple-Bar, opposite to a pewterer's shop. He came in one evening between nine and ten, and retired to his study, which fronted the street, sitting behind a desk, with his face towards the window, the curtains being so near drawn, that there was but just room enough left to discern him. In this manner he had not set above a quarter of an hour, before two bullets shot from a carbine, struck him, the one through the forehead, and the other in about his mouth; a third bullet, or slug, stuck in the lower part of the timber of the window, and the passage, by which the two former entered, was so narrow, that little less than an inch over or under had obstructed their passage.

He dropped down upon his desk without so much as a groan; so that his clerk, who was in the room at the same time, did not at first apprehend any thing of what was done; till at last perceiving him lean his head, and knowing him not apt to fall asleep as he wrote, he imagined something more than ordinary was the matter. Upon this he drew near, to be satisfied, when he was suddenly struck with such horror and amazement at the unexpected sight of blood, that, for the present, he was utterly incapable of action. As soon as he had recollected himself, he called up some of the family, by whose assistance he discovered what an unhappy accident had bereaved him of his master. Instantly they all ran down into the street, but could see nothing that

might give them the least information, every thing appearing, as they conceived, more silent and still than is usual at that time of night, in the public parts of the city. Officers were sent for, and Mr. Fussel's son (for he had been married before) was acquainted with the melancholy news; who immediately made use of all the means he could think of to discover the authors of this horrid fact.

Several places were searched in vain; and a barber, who lodged in the same house with Mr. Fussel, was apprehended on suspicion, he having been absent at the time when the deed was perpetrated.

While they were considering what could induce anybody to such an action, young Fussel called to mind those irreconcilable quarrels which had for some time subsisted between his father and his uncle Strangways; and thereupon proposed the apprehending him to the officers, which motion, they, in general, approved of.

They proceeded to put it in execution, and between two and three in the morning, the Major was apprehended in his bed, at his lodging, over-against Ivy-bridge in the Strand, at the house of one Mr. Pym, a tailor, next door to the Black-Bull-inn, which is now Bull-Inn-court.

Being in the custody of the officers, he was had before Justice Blake, before whom he denied the fact, with an undaunted confidence. However, as there was so much room for suspicion, the justice committed him to Newgate, where remaining till next morning, he was then conveyed to the place where Mr. Fussel's body was. When he came there, he was commanded to take his dead brother-in-law by the hand, and touch his wounds before the coroner's inquest, a method mightily relied on by the defenders of sympathy.

But there having been nothing discovered by this experiment, he was remanded back to prison, and the jury proceeded in their inquiry, though with little hopes of satisfaction. Several ways were propounded by the foreman, for the detection of the murderer; one of which was, that all the gunsmith's in London, and the adjacent places, should be examined what guns they had either lent or sold that day. This, in the opinion of most of the jurymen, was an impracticable task; and one Mr. Holloway, a gunsmith in the Strand, who was

one of the number, told them all, that the men of his profession were so numerous, that he thought it next to impossible for them to make such an enquiry without missing many; that, for his own part, he had that day lent a carbine, and did not question but several of the trade did the same every day that passed. This saying of Mr. Holloway's was presently taken hold of by the foreman, who desired him, for the satisfaction of them all, to declare whom he had lent the said piece to: Mr. Holloway, after some small recollection, answered, to one Mr. Thompson in Long-Acre, who had formerly been a Major in the king's army, and was now married to a daughter of Sir James Aston. Upon this, a speedy search was made after Major Thompson, who being abroad, his wife was taken into custody, and detained a prisoner, till her husband should be produced, though she cleared herself very handsomely from having any knowledge of borrowing, or even seeing any such thing as a gun.

Mr. Thompson was that morning gone into the country, on some urgent occasion; but on the first news of his wife's confinement, he returned hastily to London, where being examined before a justice of the peace, he confessed, that he had borrowed a carbine of Mr. Holloway, at the time mentioned, for the use of Major Strangwayes, who told him, that all he intended to do with it, was to kill a deer; and that having loaded it with a brace of bullets and a slug, he delivered it to the said Major Strangwayes, in St. Clement's Church-yard, between the hours of seven and eight at night.

This was all the certain intelligence they could get of what passed before the firing of the gun. Who did the desperate deed was never known; for Mr. Strangwayes carried that great secret with him to the grave, refusing to confess any thing before man, and reserving this discovery for the general assize hereafter, when the inmost recesses of men's hearts shall be laid open. Thus much farther they learned of Major Thompson, that between the hours of ten and eleven, Major Strangwayes brought back the gun to his house, left it, and retired to his lodging.

These circumstances were enough to increase the suspicion of the inquisitive jury, and when they were told

to Mr. Strangways, he seemed to be struck with terror, so that he continued some moments in profound silence ; afterwards he acknowledged in a very pathetic manner, that the immediate hand of God was in the affair, for nothing less could have brought about such a wonderful detection. He farther owned, that the night the murder was committed, he left one at his quarters to personate him, whom he took care to introduce about seven in the evening, while the people of the house were employed in their necessary affairs, and not at leisure to take any notice of his actions. This friend, he said, walked about the chamber, so as to be heard of all the family, which occasioned them to give a wrong deposition, concerning his being at home, when he was examined before the magistrate. He added, that when the fact was committed (by whom, as we have observed already, he would never confess) he returned to his lodging, found means to discharge his friend, then hastened to bed, and lay there till he was apprehended, at three in the morning.

On the 24th of February, 1657-8, Major G. Strangways was brought to his trial, at the sessions-house in the Old Bailey ; where his indictment being read, and he commanded to plead, he absolutely refused to comply with the method of the court, unless, he said, he might be permitted, when he was condemned, to die in the same manner as his brother-in-law had done. If they refused this, he told them, he would continue in his contempt of the court, that he might preserve his estate, which would be forfeited on his conviction, in order to bestow it on such friends as he had most affection for, as well as to free himself from the ignominious death of a public gibbet.

Many arguments were urged by the Lord Chief Justice Glyn, and the rest of the bench, to induce him to plead ; particularly, the great sin he committed, in refusing to submit to the ordinary course of the law, and the terror of the death, which his obstinate silence would oblige them to inflict upon him. But these, and all the other motives they made use of, were ineffectual ; he still remained immoveable, refusing either to plead, or to discover who it was that fired the gun ; only affirming, both then, and always afterwards till his death, that whoever did it, it was done by his direction.

When the court perceived they could work nothing on him, the Lord Chief Justice read the following dreadful sentence:—

That the prisoner be sent back to the place from whence he came, and there put into a mean room, where no light can enter; that he be laid upon his back, with his body bare, save something to cover his privy parts; that his arms be stretched forth with a cord, one to one side of the prison, and the other to the other side of the prison, and in like manner his legs shall be used; that upon his body be laid as much iron and stone as he can bear, and more; that the first day he shall have three morsels of barley-bread, and the next day he shall drink thrice of the water in the next channel to the prison door, but no spring or fountain water; and this shall be his punishment till he dies.

Sentence being past upon him, he was remanded back to Newgate, where he was attended by several eminent and pious divines till the day of his death, namely Dr. Wild, Dr. Warmstrey, Mr. Jenkins, Mr. Watson, and Mr. Norton.

Monday, the last day of February, was the fatal day appointed for executing the judgment past on him, when about eleven o'clock in the forenoon, the sheriffs of London and Middlesex accompanied by several of their officers, came to the press-yard in Newgate. After a short stay, Major Strangwayes was guarded down, clothed all in white, waistcoat, stockings, drawers and cap, over which was cast a long mourning cloak. From whence he was conducted to the dungeon, the dismal place of execution, being still attended by a few of his friends, among whom was the Reverend Dr. Warmstrey, to whom turning, he said, "Sir, will you be pleased to assist me with your prayers?" The doctor answered, "yes, Major, I come on purpose to officiate in that christian work; the Lord strengthen your faith, and give you confidence and assurance in Jesus Christ."

After they had spent some time in prayers, the Major addressed himself to the company in general, and with a voice something more elevated than ordinary, spoke as follows:—

I thank my God, I never had a thought in my heart to doubt the truth of the religion I profess; I die a christian, and am assured of my interest in Christ Jesus, through whose merits I question not but before long, my soul shall triumph over her present afflictions in an eternity of glory, being reconciled to God by the blood of my Saviour. The Lord bless you all in this world, and bring you at last to a world of blessedness, which is the reward of the elect.

The Lord bless me in this last and dreadful trial. So let us all pray, Jesus, Jesus, have mercy on me !

Having said this, he took his solemn last leave of all his lamenting friends, and prepared himself for the dreadful assault of death, which he was speedily to encounter. He desired his friends, when he gave the signal, to lay on the weights, and they placed themselves at the corners of the press for that purpose.

His arms and legs were extended, according to the sentence, in which action he cried out, "thus were the sacred limbs of my ever-blessed Saviour stretched forth on the cross, when he suffered to free the sin polluted world from an eternal curse. Then crying with a very loud voice, Lord Jesus, receive my soul, which was the appointed signal, his mournful attendants performed their dreadful task. They soon perceived that the weight they laid on was not sufficient to put him suddenly out of pain, so several of them added their own weight, that they might the sooner release his soul. While he was dying, it was horrible to all that stood by, as well as dreadful to himself, to see the agonies he was put into, and hear his loud and doleful groans. But this dismal scene was over in about eight or ten minutes, when his spirit departed, and left her tortured mansion, till the great day that shall unite them again.

His body having lain some time in the press, was brought forth, and exposed to public view, so that a great many beheld the bruises made by the press, one angle of which being purposely placed over his heart, he was the sooner deprived of life, though he was denied what is usual in these cases, to have a sharp piece of timber under his back to hasten the execution. The body appeared void of scars, and not deformed with blood, save where the extremities of the press came on the breast, and upper part of the belly. The face was bloody, but not from any external injury, but the violent forcing of the blood from the larger vessels into the veins of the face and eyes. After the corpse had been thus examined, it was put into a coffin, and in a cart that attended at the prison door, conveyed to Christ-church, where it was interred.

While he was under sentence, he wrote the following letter to Major Dewey, a member of parliament, who had married one of his sisters :—

DEAR BROTHER,

I hope forgiveness from you and the rest of my friends, for my conscience bears me witness that I was grievously provoked by my brother-in-law's wrongs. It was after he had abused me by persecutions, and refused to fight me in single combat, that I suffered myself to be tempted to do what I did, though I intended only to have terrified, and not killed him. In a word, each hath his desert; he fell to my revenge, and I to the law. I suffer willingly, being satisfied that my crime is cancelled before the Almighty. From
Your dying brother,

G. STRANGWAYES.

It is said the Major had often fallen into most impetuous storms of rage at the sight of Mr. Fussel, and had offered him odds in length of weapon, to fight with him; once in particular, he met him in Westminster-hall, when they had a cause there depending, and told him, that Calais sands was a much fitter place for them, who were both cavaliers, to dispute in, than that court, where most of the judges were their enemies. But Mr. Fussel not only refused that way of deciding their quarrel, but indicted him as a challenger, which added fuel to his former rage, and put him upon the dreadful manner of satisfying his passion, for which he suffered.

JAMES NAYLOR,

FOR BLASPHEMY AND OTHER MISDEMEANORS
IN DECEMBER, 1656.

THE prisoner was charged, first, with assuming the gestures, words, honour, worship, and miracles of Christ. Secondly, with assuming the names, and incommunicable attributes of our blessed Saviour.

James Naylor, was born at Ardisloe, near Wakefield, in Yorkshire, and entering himself in the parliament army, at the beginning of the civil wars, became quartermaster in Lieut. Gen. Lambert's own troop; but falling sick in Scotland, he returned home, and became a member of an independent congregation, from which he was excluded for blasphemy, and giving out that it was lawful to lye with any woman of the same sect; and his familiarity with one Mrs. Roper, a married woman. From Yorkshire he went to Cornwall, to visit the quakers there, and was committed to Exeter gaol as a vagrant, with several of that sect who attended him; but being

set at liberty, by an order of Cromwell's council, he and his disciples began a kind of solemn procession from Exeter to Bristol, in imitation of our Saviour's riding to Jerusalem.

The witnesses deposed, that James Naylor was set upon an ass, which was led by a woman, and in all the towns they passed through in their way to Bristol, his disciples spread their garments, and sung, Holy, holy, holy, before him, and said they were moved by the spirit so to do. And Naylor himself said, that garments were spread, and praises sung to the Lord before him, at his entrance into Bristol; and said, it was as the Lord put into their hearts; it was done to the praise of his Father, and he might not refuse any thing that was moved of the Lord; he did think the Father commanded them to do it. And being asked, who they meant by holy, &c. he answered, they were of age, let them answer for themselves. He had also the description of our Saviour's person about him, and it was observed by the committee, that his person much resembled the picture commonly drawn for our blessed saviour, and he affected to give the like answers that Christ gave; as when he was asked, how he could live without food for fifteen or sixteen days? (as he pretended he had) he answered, man liveth not by bread alone, but by every word that proceedeth out of the mouth of God; and in another of his answers, he said, if they had known the Father, they should have known him also. It was testified also, that several women kneeled before him, and kissed his feet; and one Dorcas Erbery deposed, that she was dead two days in Exeter goal, and Naylor laid his hands on her, and raised her up: and when the committee demanded of the prisoner, if he raised her from the dead? he answered, I can do nothing of myself, but there is a power in me from above: and being asked, who bore witness of him? he answered, the Scriptures do bear witness to the power which is in me, which is everlasting; and that it was the same power, whereof they read in Scripture, that had raised the dead, according to the power manifest. That as to what Dorcas Erbery, or any other attributed to him as a creature, that had beginning and ending, he utterly denied; but what any person saw of God in him, that he did not deny. That

the same power which did raise the dead, which they read of in Scripture, the same Christ, the same anointing according to the measure of him, was manifest in him, (the prisoner) and no other. And being asked if any prayed to him? he answered, as a creature, he did disown it. A letter from one Hannah Stranger being found about him, wherein she gives him the title of "The fairest of ten thousand;" he said, if she meant it of what was visible, he denied the title; but as spoken of that which the Father had begotten in him, he durst not disown it, for that was beautiful wherever it was begotten. In the same letter Stranger gave him the title of "The only begotten Son of God." And it being demanded, if he was the Son of God, he answered, "Thou hast said it."

In another letter from Jane Woodcock, she gave him the title of the Prophet of the Most High; and Naylor himself at his first examination, averred, that he was the prophet of the Most High God; but afterwards he only said, he was a prophet of the Most High God.

In a letter from Thomas Simmons, he was styled the King of Israel; and being asked, if he assumed that title? he answered, he had no kingdom in this world; yet a kingdom he had, and he that had redeemed him, had redeemed him to be a king for ever; but he denied any such thing as a Creature, further than as God manifested in the flesh, and if they gave that title to Christ in him, then he owned it. In another letter from Hannah Stranger, she gave him the title of the Everlasting Son of Righteousness; and Naylor being examined about it, said God manifest in the flesh, he did witness, and might not deny; and that where God was manifested in the flesh, there was the Everlasting Son of Righteousness. Jane Woodcock, in another letter to Naylor says, he was sent to judge and try the cause of Israel; and at his examination he averred, he was sent to try the cause of Israel, by him who made all creatures, who had sent his spirit and his Son into him, to try the cause; but said, he was no judge of carnal matters.

In the postscript to Hannah Stranger's letter, her husband wrote, thy name shall no more be called James, but Jesus; and Naylor on his examination said, if they gave it to any other but the Son of God that was in

him, he denied the name ; but he understood they gave that name to the Jesus, the Christ, that was in him : that he did not call himself by that name, but what his father had published, was another thing.

In another letter from Martha Simmons to Naylor, she styles him, "Thou well beloved Lamb of God, in whom the hope of Israel stands ;" and Naylor, at his examination said, if he were not his lamb, he should not be sought to be devoured : and being asked if the Hope of Israel did stand in him ? he answered, it stands only in Christ, and as Jesus Christ is known in me. And being asked again, are you he in whom the Hope of Israel stands ? he answered, Christ in me, the Hope of Glory. Being questioned further concerning the titles given him in the letters, he said, he did not design they should have seen them, because he knew there were things in them, that many could not bear ; but now he saw his father purposed they should not be hid. Being asked whether he owned or disclaimed the Attributes ? he answered, if they had it from the Lord what was he that he should judge it ? But if they were ascribed to the Creator, then it was reprobable. If they did it to the Lord, he durst not reprove it ; adding, that he looked upon the honour and worship given him, to be the true honour of Christ, or else he would have utterly denied it.

It was further deposed by John Baynham, Deputy-serjeant to the Commons, that while Naylor was in his custody, he usually sat in a chair, and his disciples, men, and women, kneeled about him, or sat on the ground when they were weary of kneeling, singing, "Holy, holy, to the Almighty, to the true God, and great God, and Glory to the Almighty, &c." and this they did all day long, but Naylor never sung himself.

That there was a great resort of other people to him, who in like manner kneeled before him ; and that Naylor never showed any dislike, or reproved them for it.

It being demanded of Naylor, what he had to say in his defence, he answered, that he abhorred that any honour which was due to God, should be given to him, as he was a creature, ; but it pleased the Lord, to set him up as a sign of the coming of the Righteous One : and as to what had been done in passing through towns,

he was commanded by the power of the Lord, to suffer such things to be done to the outward man as a sign ; but he abhorred any honour as a creature.

Upon the whole, the committee resolved that the charge was fully proved against the prisoner ; who being sent for to the house the 6th of December, and commanded to kneel, he refused ; and standing with his hat on at the bar, the serjeant, by the speaker's order, took it off ; and being asked, if his name was James Naylor ? he answered, he was so called ever since he could remember ; and acknowledged he had given the answers abovementioned to the committee. After which he was commanded to withdraw ; and it was resolved to agree with the committee, first, that Naylor was guilty of horrid blasphemy ; secondly, that he was a grand impostor and seducer of the people. And the question being put, that it be part of his punishment to have his hair cut off, it passed in the negative. But on the 17th of December, the following sentence was agreed on, viz. that James Naylor be set in the pillory in the Palace-yard, on Thursday next, and be whipped from thence to the Old Exchange, by the hangman ; where, on the Saturday following, he shall likewise be set in the pillory ; and in each place wear a paper, signifying his crimes. That at the Old Exchange, his tongue shall be bored through with a hot iron : and he shall be there also stigmatized in the forehead with the letter B, and afterwards conveyed to Bristol, and ride into and through the said city, on a bare horse's back, with his face to the tail, and be publicly whipped the next market-day after he comes thither ; and afterwards be committed to Bridewell in London ; and restrained from the society of all people ; and have neither pen, ink, or paper, or any relief, but what he gains by his labour.

While this sentence was executing on the prisoner in the pillory, his followers adored him, and afterwards licked his wounds, and kissed his feet. When he came first to Bridewell he fasted three days, but then was glad to eat, and work to keep himself alive ; while another quaker attempting to fast forty days in imitation of our Saviour, was starved.

These were some of the happy consequences of the subversion of the church and state. Sound religion, and

sound politics, were now entirely banished the nation; the people were divided into a multitude of impious and blasphemous sects, every one of which proposed the new-modelling of the state; as well as the church, after the whims of their own brains; and we see how tenderly blasphemy and idolatry were then dealt with. These saints, who could not bear the image or picture of our Saviour on a glass window, in the days of monarchy and episcopacy, now fell down and worshipped a man like themselves, in the public streets and highways, in the face of all the world, ascribing to him the attributes of the Deity; and yet, we do not find any one of them punished for it, except this James Naylor: and whether his sentence was adequate to the offence, we leave the world to judge.

Quakers, fifth-monarchy men, the family of love, and every enthusiastical opinion was tolerated; only the disciples of the national church and the loyalists, were persecuted with rigour; and as to these, the powers then in being, published a declaration, to let them know, that they would not allow them the favour of a trial, if any of them were suspected of conspiring to restore the constitution, but they would believe them all guilty; and put them to death, without so much as suffering them to have the benefit even of the forms of law.

MILES SINDERCOME, *alias* FISH,

FOR HIGH TREASON, FEB. 9, 1656.

MILES SINDERCOME, was indicted for high treason, in conspiring against the life of the Lord Protector, to subvert the government of the commonwealth, and to levy war against the same. The overt-acts laid of the conspiracy were that he, with one William Boyce, and others his accomplices, hired a house in Westminster, to which they carried arms and ammunition, with an intent to murder the Protector; that they also provided horses, and took another house at Hammersmith for the same purpose; and that they brought gunpowder, brimstone, and other combustible materials, into the chapel of White-

hall, and set fire to the same, to the great danger and disturbance of the Protector.

All the account given us of this trial, is some short notes that seem to have been taken by a friend of the usurper's; who relates that Toope, one of the prisoner's accomplices, deposed, that the prisoner had made him offers of money and preferment, to join with him in murdering the Protector; that the deponent, (who was a soldier in Cromwell's guards) was to give notice when the Protector went abroad, and what part of the coach he sat in; he gave evidence also of their buying up fleet horses; of the prisoner's lodging gunpowder, &c. in the Chapel of Whitehall; and his resolution to kill the Protector, if the fire did not take.

That Cecil, another of the conspirators, deposed, that the prisoner engaged him in the design of assassinating the Protector; and that they were upon the road five or six times, in order to effect it, particularly once in Hyde Park, when Toope gave them notice the Protector went abroad; that they took a house at Hammer-smith also, and lodged arms in it on purpose to shoot him as he came by; and that one of their guns would carry twelve carbine bullets and a slug; and he described the fire-works prepared for burning Whitehall.

He deposed also, that forces were expected from Spain and Flanders, to join the conspirators, and that great part of the Fleet would revolt, and believed that Colonel Sexby was the principal agent at Brussels: that there were thirty or forty engaged to assassinate the Protector; but it was so ordered, that not any one should know the others were in the plot, until the matter was ripe for execution.

He deposed further, that houses were taken in Westminster, and arms lodged in them, to kill the Protector as he went to the Parliament-house: that the prisoner, Cecil the deponent, and Boyce, actually went out into a yard near Westminster Abbey, to shoot the Protector, as he passed from the Abbey to the Parliament, in the painted chamber; but were prevented by some accident.

The witnesses deposed further, that this attempt not

succeeding, they provided fleet horses to kill him as he rode out; and attempted the first time, the latter end of September; a second time, as the Protector went the backway from Kensington to London; a third time when he went to Hyde Park in his coach; a fourth time when he went to Turnham-green; and a fifth time when the Protector alighted from his horse in Hyde Park, but were prevented then by Cecil's horse being out of order: that Sindercome rode out once alone to kill him; and all these attempts failing, they resolved to fire Whitehall.

Sindercome absolutely denied he knew of any plot; and insisted, as others had done, that no treason could be committed against the person they styled Protector: to which the usurper's Chief Justice Glynn, and Justice Warburton, replied, that to compass the death of the Chief Magistrate, by what name soever he was called, was high treason; and that he (the Protector) was the fountain of justice, in whose name all writs run, and all commissions and grants were made: and the jury finding him guilty, the following judgment was passed on the prisoner, viz.

“That he should be drawn upon a hurdle from the Tower to Tyburn, and there be hanged until he was half dead, and then being cut down, his bowels should be taken out, and burnt in his sight; his body divided into four quarters, and disposed of as his Highness the Lord Protector should think fit.”

Whether Sindercome poisoned himself, because he apprehended the sentence would be rigorously executed, or to avoid the ignominy of the execution; or whether he was poisoned, or otherwise privately murdered, by the direction of Cromwell, lest he should discover more of his villainy, does not fully appear: but it is certain he was found dead in his bed, the night before he should have been executed; whereupon the coroner sat upon his body, and several witnesses were examined, as to the manner of the prisoner's death.

Sir Richard Napier, doctor of physick, and Doctor Fern, reader of anatomy in Gresham College, deposed, that being desired by Sir John Barkstead, Lieutenant of the Tower, to see the head of Miles Sindercome

opened (his body having been opened before their coming by the surgeons) and make their observations thereon; they found the brain much inflamed, red, and distended with blood, swollen as full as the skull could well hold; besides much grumous and clodded blood out of the veins, which must be the effect of some very violent and preternatural cause. Yet were they not able positively to determine what that was, or whence it proceeded, the motion being much more sudden and violent than that of apoplexies, and other known diseases of the brain, except when caused by contusion, and other the like extraordinary violences.

Charles Stamford and Nicholas Brethers, wardens of the surgeons company, and Laurence Loe, another able surgeon, deposed, that being ordered to open the body of Miles Sindercome, prisoner in the Tower, they could not find out, or discover any the usual symptoms, or effects, accompanying the taking of known and sharp poisons, causing sudden death; but by the distension and swelling of the brain and vessels in the head, with much coagulated blood, which they found there: their opinions therefore were, that the prisoner had caused the same by some extraordinary means for the hastening of his death.

Under the close-stool, in Sindercome's room, was found, after he was dead (as it is said) the following paper, subscribed with his own hand, viz.

"God knoweth my heart, I do take this course, because I would not have all the open shame of the world executed upon my body: I desire all good people not to judge amiss of me; for I do not fear to die, but do trust God with my soul. I did this thing without the privy of any person in the world: I do before God and the world clear my keeper, my sisters, mother or brother, or any other of my relations; but it was done alone by myself: I say by me,"

MILES SINDERCOME.

The 13th day, 1656.

Elizabeth Herring, wife of William Herring, mariner, and sister to Miles Sindercome, deposed, that she went several times to see her said brother in the Tower, and that going to him on Monday, the 9th of February, after he had received sentence of death, and lamenting his condition, he said, before they should have his life so shamefully (meaning the Lord Protector, she believed) he would poison himself, and desired her to procure him some poison, which she refused; and that coming every day after to see him while he lived, he did not mention poison any more, or speak any words of discontent, as if he intended to destroy himself; nor did he com-

plain of any sickness or disease, that he was troubled withal : that on Friday the 13th of February, the last day he lived, she persuaded him to confess who had a hand in the plot against the Lord Protector ; and told him, if he would confess, his Highness would grant him his life, and wished him to trust to God and man. To which the said Sindercome replied, he would have it under black and white, and that he would trust no man : that about eight at night she left him in good health, as she thought ; and that he found in his conscience he had made his peace with the Lord :—Denied she ever brought him poison, or any other thing to destroy him ; yet confessed, that on the said Friday night before he died, she did say, she desired with all her heart to see him die a natural death in that chamber.

Two other women, who visited Sindercome after sentence, deposed, that they did not know of any poison brought him, nor did they ever hear him speak any words as if he intended to destroy himself by poison, or otherwise.

William Foster, one of the officers appointed to remain in the chamber, where Sindercome was imprisoned, deposed, that on Friday the 13th of February, about nine at night, the prisoner desired him and four more, that were then in his room, to withdraw out of the chamber, while he went to prayers, which they did ; and within a quarter of an hour he called them in again, and took a book in his hand to read, after which he said he would go to bed, and that was the last night he should go to bed ; and laying himself down, fell asleep, and snored, as the examinant thought ; but desiring Daniel Steer, his keeper, to take a candle and see how the prisoner lay in his bed, Steer said he was almost dead ; however, he lay speechless, for two hours after, and then died.

Philip Brown, another of the officers appointed to wait in the prisoner's chamber, deposed, that he was at dinner with Sindercome on the 13th of February, and he said, that was the last meal he should ever eat : and that afterwards two of the prisoner's sisters, a cousin, and another woman, came to see him, and would have persuaded him to confess who brought him into those troubles, and he answered, " To whom should he confess ? He could not expect mercy from him who was resolved to give him none." Adding, that Cromwell said to him when he was taken and brought before him, " Sindercome, have I caught you ? you that have sought many ways to take away my life, I will have no consideration at all of thy life." That when Sindercome had heard these words, he fell in a great passion, and said he might go and accuse the Lord Fleetwood, the Lord Lambert, Sir John Barkstead, Sir Thomas Pride, or any other member of the army, if he was minded to destroy innocent blood. That about seven the same evening this examinant received orders from the major, that Sindercome should have some time allowed him apart to prepare himself, if he desired it ; and thereupon the examinant retired out of the chamber, and left him alone ; and standing at the door, a quarter of an hour after, he saw the said Miles kneeling by the bed-side ; but soon after this, one of the sentinels, who stood at the chamber-door, told the examinant, that Sindercome did cough and keck, as if he was vomiting ; and opening the door, he found the prisoner walking about the room. That Captain Foster, and

Captain Sharp, who were ordered to be there that night, then came into the room: and about nine at night Sindercome desired all the company to withdraw out of the room, and within a quarter of an hour called them in again, took a book in his hand to read, and then said he would go to bed, that was the last night he should go to bed; and that a little time after he lay down they discovered he was dying, as the last witness deposed.

Daniel Steer, the prisoner's keeper, deposed, that Sindercome being a prisoner in the Tower, the latter end of January, told the examinant, if he would be faithful to him, he would give him the value of his place, were it worth two hundred pounds, desiring he would provide him (Sindercome) a black suit of cloathes, a peruke, and short dagger, and pass him out of the Water-gate, and he would kill any man that should oppose him: That the prisoner, coming back to the Tower from his trial, the 9th of February, was in a great passion, and said they should not have their ends, and desired the examinant to help him to some poison, that he might make away with himself; and he refusing, the prisoner applied himself to his sister, Elizabeth Herring, who was present, to bring him some poison, but she fell a crying; and afterwards the prisoner and the said Elizabeth had some private discourse, which the examinant did not hear: That his sister being gone, the prisoner demanded if he could not possibly help him to make his escape, and if he could, he would make 200l. good to him that night; and if the examinant would go along with the prisoner, he would make that 200l. 700l. or what he should desire; but the examinant replied, it was impossible for him to make his escape, there was such a strict guard kept about him: That on the 13th of February, about ten at night, the examinant was in the prisoner's chamber, together with Captain Sharp, Captain Foster, Ensign Browne, and serjeant Stock; and that the prisoner desired them to withdraw, called them in again within a quarter of an hour, went to bed, and died as the former witnesses had deposed; but that he knew of no poison, or any other means the prisoner used to take away his life.

Capt. H. Sharpe, who was in Sindercome's room, on Friday the 13th of February, confirmed the evidence the former witnesses gave; adding, that after the prisoner's sister, and the rest of the women were gone, they caused the room and the bed to be searched, lest any thing should be left there for the prisoner to do himself a mischief withal; but nothing could be found.

Elizabeth Sindercome, of Deptford, widow, the prisoner's mother, deposed, that she went three times to see her son while he was prisoner in the Tower; and that she did not know of any violent means used by him, or any other, to hasten his death: That he told her, the last time she was with him, he was prepared to die, and she saw him no more. But about twelve o'clock on Friday night, the 13th of February, she heard she was sent for, and heard he was very sick and weak, of which sickness he died presently after.

The coroner's inquest having considered the above said depositions, could come to no resolution, as to the cause of his death, and therefore adjourned.

On the 16th of February, they sat again, when it is

said they were of opinion, that the prisoner, by some extraordinary means, had been the occasion of his own death, and believed the same to be by poison; but adjourned, however, until seven the next morning, at the Lord Chief Justice's house, where having received his lordship's direction, they gave in their verdict, "that the said Miles Sindercome, on the 13th of February, about nine at night, snuffed up a certain poisoned powder, through his nose, and by the strength and operation of the said poison, he, the said Miles Sindercome, within three hours after, died; and so they found that he did feloniously kill and murder himself."

Whereupon the coroner issued his warrant to the constables and headboroughs within the liberty of the Tower, requiring them to bury the corpse of the said Miles Sindercome in the common highway; and it was accordingly, the same 17th of February, drawn to the open place on Tower-hill, at a horse's tail, with the head forward, and thrown into a hole dug under the common scaffold for execution, stark naked; and a stake, spiked with iron, driven through the corpse; that part of the stake that remained above ground being plated with iron.

The Lord Clarendon, speaking of Sindercome in his history of the grand rebellion, says he was a very stout man, and had been much in Cromwell's favour, but afterwards became his enemy, and had twice or thrice, by wonderful and unexpected accidents, been disappointed in the minute he made sure to kill him; and that when Cromwell caused him to be apprehended, his behaviour was so resolute at his examination and trial, as if he thought he should still be able to do it; and it was manifest he had more associates who were undiscovered, and as resolute as himself; and though Cromwell had got him condemned to die, the fellow's carriage and words were such, as if he knew very well how to avoid the judgment—which made Cromwell believe, that a party in the army would attempt his rescue: Whereupon he gave strict charge, that he should be carefully looked to in the Tower, and three or four of the guards always with him day and night. At the day appointed for his execution, those troops Cromwell were most confident of, were placed upon Tower-hill, where the gallows was erected; but when the guard called Sindercome to rise in the morning,

they found him dead in his bed, which gave trouble exceedingly to Cromwell; for besides that he hoped, at his death, to avoid the utmost rigour of it, he would have confessed many of his confederates; he now found himself under the reproach of having caused him to be poisoned, as not daring to bring him to public justice; nor could he suppress that scandal. This accident perplexed Cromwell very much; and though he was without the particular discovery he expected, he made a general discovery by it, that he himself was more odious in his army than he believed he had been. See Clarendon's History, vol. III. p. 646, and Seq. 8vo. edit.

In a pamphlet entitled, *A further Narrative of the Passages of these Times in the Commonwealth of England*, is recited, *A brief Relation of the late dangerous Plot*, published, as is evident from the face of it, by the usurper's authority and direction; in which it is said — “the principal person employed in the traitorous design, for the destruction of his highness' person, was a notable desperate fellow named Sindercome; one who, heretofore, had been a quarter-master under Sir John Reynolds in the army; and was, about two years before, cashiered by General Monk, among others, in Scotland: he associated to himself one Cecil; and many others were engaged in the business: for the carrying on their work, they held correspondence with some in Flanders, received directions from thence, from time to time; and for their encouragement, Don Alonzo, the late ambassador of Spain in England, returned them over sums of money, with which they were enabled to proceed.”

In the same pamphlet, entitled, *A further Narrative, &c.* is recited also a narrative, which, it is said, Colonel Edward Sexby delivered to Sir John Barkstead, Lieutenant of the Tower, the 12th of October, 1657; wherein they make Colonel Sexby say, “Sir John, I sent to you, to tell you that I am guilty of the whole business of Sindercome, as to the design of killing the Lord Protector, &c. And to that purpose I furnished Sindercome with about 500*l.* in money, and also with arms; and tied him to an engagement, that he should not reveal the design:” Adding, “the letters they have of mine, they could not prove to be mine; but by my own confession, which I now confess and acknowledge, are mine; and that I was

with Charles Stuart, and acquainted him, that I was an enemy to the Lord Protector: And I also declare, that I received a large sum of money from the Spaniards, to carry on the said design, and to make what confusion I could in England, by endeavouring the killing of the Lord Protector, and by what other means I had in design: and to that end, the better to effect it, I came into England in a disguised habit, and was the principal in putting on others in the said design: I was the only man that set on Sindercome to kill the Lord Protector. He owned the book, called "Killing no Murder," and said he was still of that judgment; and yet they make him say, it was both foolishly and knavishly done in that book, to charge the Lieutenant of the Tower touching Sindercome's death.

Colonel Sexby died in the Tower the 13th of January, 1657, almost a year after Sindercome's death.

Miles Sindercome was the son of ——— Sindercome, of Deptford, near London, and it is probable his father was a seaman, a great many of the inhabitants of that town being such, and his sister appearing to be married to one Herring, a seaman, of that place: However the son (it is related) was apprentice to a surgeon at St. Katherine's, near the Tower; and went into the rebel's army, when the civil wars broke out, where he arrived at the post of quarter-master of horse, and was a great favourite of Cromwell's, till he found him averse to his assuming sovereign power.

SIR HENRY SLINGSBY, KNIGHT,

FOR HIGH TREASON,

IN WESTMINSTER-HALL, THE 25TH OF MAY, 1658.

THE impeachment charges Sir Henry with high treason against the Lord Protector (Cromwell) and the commonwealth, in conspiring to betray the town and garrison of Hull, to Charles Stewart, eldest son of the late King Charles: and with endeavouring to withdraw Ralph Waterhouse, John Overton, and other officers of

the said garrison, from their obedience to his Highness the said Lord Protector: with endeavouring to raise an insurrection in favour of the said Charles Stewart, the son, corresponding with him, and contriving to advance him to the throne; and with delivering a commission from Charles Stewart to the said Waterhouse, to be governor of the Castle of Hull.

Sir Henry being arraigned, desired he might be tried by a jury, according to law; but was told, the court consisted of a number of persons amounting to two or three juries: that acts of parliament made law and justice, and these had altered the manner of trial, and constituted this court both jury and judges; and that he was a parliament man when the act was made, and so consented to it.

Sir Henry replied, he was a prisoner when the act was made, and could not be said to trespass against their laws, because he never submitted to them: that laws were intended for the preservation of liberty and property; but every thing was taken from him, he had received no benefit by their laws: however, Sir Henry being at length prevailed on to plead Not Guilty, the Attorney-General called his witnesses.

Ralph Waterhouse deposed, that Sir Henry tampered with him, and offered him 5,000*l.* to secure the South-house for the king's service, and said that the Duke of York would bring over 7 or 8,000 men from Flanders to besiege Hull, and if the South-house were secured, the work would be half done: that Sir Henry also offered the deponent a commission to be governor of the castle, and two block-houses near Hull, which was dated at Bruges, March 12, 1657, and that the deponent had then the command of a company, and of the South-Block-house.

Overton deposed, he saw Sir Henry deliver the said commission to Waterhouse, in April, then last past: and that he also being an officer of the garrison of Hull, and Sir Henry his prisoner, he had in like manner tampered with the deponent to betray the town to the king, and told him, the king would land either at Hull or Scarborough; and that the prisoner said, his son assured him the town was too strong for the garrison.

George Thompson, lieutenant to Waterhouse, also de-

posed, that Sir Henry had tampered with him, and told him there was a design to bring in the king with a considerable army; and that the king had promised pardon to all officers, but the Lord Protector and Bradshaw.

Sir Henry in his defence said, he perceived he had been trepanned by these fellows, and that they had sworn that seriously, which he had spoken in mirth, while he was their prisoner in Hull; but that indeed they had moved the matter to him, and not he to them; and that the commission they mentioned was a blank he had by him these four years.—See the sentence in Mr. Mordant's trial.

JOHN MORDANT, ESQ. FOR HIGH TREASON,

THE 1ST OF JUNE, 1658.

THE prisoner was impeached of high treason, against the Lord Protector and commonwealth, for inciting and endeavouring to raise a new war, in order to subvert their government, and advance Charles Stewart to the throne; and for that he consulted with John Stapely and Henry Mallory how to effect the same, and delivered commissions to several other persons to levy war against the government.

Mr. Mordant, being arraigned, made the same objections to the court, and the legality of this method of trial, that Sir Henry Slingsby had done; but at length, by the advice of his friends, and an intimation that mercy was intended towards him, he pleaded Not Guilty.

Then the Protector's counsel produced their evidence, and first Mr. John Stapely was sworn, who deposed, that the prisoner told him there was a design to bring in the king, who had wrote to him to speak to his friends to be ready; and that the king would bring 7,000 men with him; and Sir Francis Vincent and Sir William Waller were in the conspiracy.

Mr. Anthony Stapely deposed, that being at the Half-Moon-Tavern, in Aldersgate-street, with Captain Mallory and Mr. Mordant, the latter enquired into the affairs of Sussex, and what preparations there were, in

case the King of Scots should land; and the deponent answering, there would be an appearance answerable to his expectations; but there was a considerable strength ready to assist them in Surrey; Mr. Mordant replied, he had delivered out four commissions, three of horse, and one of foot, to the best of his remembrance, but he durst not swear it; and it was agreed to meet at Crawley, in Surrey, the Tuesday following, to concert matters between Surrey and Sussex.

Then the deposition of Captain Mallory who had escaped out of prison, was read; giving an account of the conspirators meeting at the Half-Moon, and appointing to meet again in Surrey, to see how affairs stood in relation to the counties of Surrey and Sussex.

Mr. Mordant observed in his defence, that the first witness did not swear he saw any letter from Charles Stewart, and however he was but one witness; that the next was very uncertain in his evidence, and could not tell, whether the commissions were for horse or foot; that there was no meeting at the place mentioned in Surrey, nor was it said what they were to meet about. Then the court adjourned; and on the 2d of June, Sir Henry Slingsby, Doctor Hewet, and Mr. Mordant, were again brought to the bar, and Mr. Attorney prayed the judgment of the court as to Sir Henry Slingsby and Mr. Mordant; and as to Doctor Hewet, who had refused to plead, he demanded their justice.

The president thereupon demanding of Sir Henry Slingsby, what he could say, why the court should not proceed to judgment? He answered, he desired to be tried by a jury, looking on the court as his enemies, some of them having already sequestered and sold his estate, because he would not compound; and if he had compounded, the times were so unsettled, that he did not know but he might be compelled to compound over again; and thought it strange, that his enemies should be both his judges and jury: but the court would hear no more of this; and the president proceeded to make a speech to the prisoners, wherein he tells them, that it was a great aggravation of the sins of the Egyptians, that when God had declared himself by so many signs and wonders on behalf of the Israelites, they should still pursue Moses: and who could be so much a stranger to

these nations, as to be ignorant what God had done among them, by a series of wonderful providences so many years together, against a party, who were still hatching of treasons and rebellions against them? That it grieved his soul to think, after so many signal providences wherein God seemed to declare himself as it were by signs and wonders, that their hearts should be more hardened than the Egyptians; for they did at length see that the Lord fought against them: but the Cavaliers, though they could not but see that the Lord fought against them, that the stars in their courses fought against them, yet they would not see or confess it, till their destruction overtook them; and if these wonderful providences would not move them, he thought national considerations might deter them from these practices; for Charles Stewart was in confederacy with Spain, that great popish interest against England: and it was very strange that a Protestant could assist such an interest as this; yet such Protestants were the prisoners. And as to Sir Henry Slingsby's observing that he was a prisoner, and therefore not subject to their laws; he said every man owed a natural allegiance to the supreme magistrate, and that his not owning the government was in itself a great offence, and far from being an excuse for treason: and what did they think would have become of the protestant interest if they had succeeded, and Charles Stewart had been brought in? Did they but review the declarations of parliament, since 1640, they would see what family it was betrayed the Protestants of France, when Rochel was taken? What family it was that betrayed the Protestants in Germany, and in the Palatinate, when a peace was made with Spain? What could they think of that family that could tolerate popery for a match with Spain? What would the family have done if they had regained the three kingdoms once again?

As to Mr. Mordant, he said, God appeared to him at this time, as he did to sinners in Jesus Christ; for he did clear sinners in Jesus Christ, even when they were guilty, and so God cleared him. He would not say he was guilty, but bid him ask his own conscience, whether he was so or not? and bless God as long as he lived, and bless the Lord Protector, by whose authority he was cleared.

Then the clerk was ordered to read the sentence against the other two prisoners, viz. that they should be drawn, hanged, beheaded and quartered; but the Protector was pleased to be contented with the severing their heads from their bodies: and they were beheaded on Tower-hill, the 8th of June.

TWENTY-NINE OF THE REGICIDES,

FOR HIGH TREASON,

AT THE OLD-BAILEY, LONDON, OCTOBER 10, 1660.

THE indictment charged them with compassing and imagining the death of the late King Charles I. And the sitting in judgment on his majesty, and signing a warrant for the execution, were laid as overt-acts of that treasonable imagination.

Col. Thos. Harrison, was the first of the regicides that was brought upon his trial; who being arraigned and directed to plead Guilty or Not Guilty, said they were vain words, and desired he might answer the charge his own way; however, he was prevailed on at length to plead Not Guilty.

Then the king's counsel opened the indictment, and produced five witnesses, who deposed, that Thomas Harrison, the prisoner, sat as one of the king's judges, in the pretended high court of Justice; and particularly on the 27th of January, 1648, when the sentence was read; and that he stood up with the rest, to express his assent to it: and one of the witnesses made oath, that the members of that pretended court, sitting in the Exchequer Chamber, and debating concerning the impeachment of the king, Harrison said, Gentlemen, it will be good for us to blacken him; and that he heard Harrison tell the other regicides, that when he was bringing the king to London, the king asked him when they were in the coach together, what they intended to do with him; whether to murder him or not: and the prisoner answered, there was no intention to murder him; they had no such thoughts; but the Lord hath reserved you for

a public example of justice. The prisoner's hand also was proved to the warrant for summoning the high court of justice, and to the warrant for beheading his late majesty.

The Lord Newburgh deposed further, that Harrison commanded the party that brought the king from Hurst Castle to London, and that his Majesty dining on the road at Bagshot Lodge, where the deponent then resided, Harrison gave orders for placing the sentinels; and when they set forward for Windsor, Harrison ordered several of his officers to ride close to his Majesty, lest he should make his escape.

The prisoner said in his defence, that the matter he was charged with was not done in a corner; the sound of it had reached most nations; and he believed the hearts of some had felt the terrors of that presence of God that was with his servants in those days; however, it had seemed good to God to suffer this turn to come upon them; that he had earnestly desired of God, the searcher of hearts, if he had done amiss, that he might receive some convictions on his conscience; but though he had sought it with tears many a time, of that God in respect of whom they and all nations were but as a drop of the bucket, to that moment, he had rather received assurance of the justice of what he had done; and he believed ere long it would be made known from heaven there was more of God in it than men were aware of; that their lordships knew what a contest there had been for many years, and how active many upon the bench had been. And being reprimanded by the court for his reflexions, he went on and said, that what he had done was out of conscience to the Lord; and he conceived, that what had been done by authority of parliament no other jurisdiction could meddle with; that they were the supreme authority, and those who acted under them could not be questioned by any power less than that. And whereas it had been said they usurped that power, he said it was rather done in the fear of the Lord. Here he was interrupted again, and told that such things were not fit to be vented in an assembly of Christians, to make God the author of all their damnable treasons. He proceeded, however, and said, that what he had done by authority of parliament, he ought

not to be questioned for, otherwise they were in a miserable condition, bound to obey those that were in authority, and yet to be punished when they obeyed, and desired counsel to that point. The court answered, if there was any difficulty, they should and ought to be counsel for him, but that neither one or both the houses of parliament—neither the people, collectively or representatively, had any coercive power over their king, much less those few members of the Commons, after they had purged their house of the corrupt majority, as they called it; and Mr. Annesley put the prisoner in mind, that he was the man that forcibly removed the parliament's guard, and placed other guards at the door of the House, who threatened and insulted the members; that after the House had resolved that the treaty in the Isle of Wight was a ground for peace, forces were drawn down to the House of Commons, and none suffered to come in but those the soldiers approved of; and all who professed any duty to the king were seized on by Harrison and his fellows; and then the prisoner and a small remnant of the House declared against the vote that had passed for a treaty with his Majesty, and took upon them to exercise sovereign authority; and under these he would skreen himself, as acting by authority of parliament, when a majority of the House of Commons disavowed their proceedings; and had they been entire, they could have had no pretence to the supreme authority.

Then the Lord Chief Baron proceeded to direct the jury, and informed them, that if any of the overt acts laid in the indictment was proved,—either his consulting, advising, sitting in judgment, or sentencing the king, they ought to find the prisoner guilty; but here all these facts were proved, not only by witnesses but by the prisoner's confession. He observed also, that the prisoner had the king in his custody, and brought him prisoner from Hurst Castle, without any authority from those he called the supreme power; and that if any man went about to imprison the king, it had been often adjudged an evidence of imagining and compassing the king's death; that the prisoner was so far from denying the facts, that he justified what had been laid to his charge; whereupon the jury found him guilty, without going out

of court, and sentence was pronounced on him as a traitor.

Then Adrian Scroop was brought to the bar, against whom six or seven witnesses deposed, that they had seen him sit as one of the late king's judges, in the pretended High Court of Justice, and particularly on the 27th of January, when the sentence was read, and they all stood up to express their assent to it; his hand was also proved to the warrant for summoning the court, and to the warrant for beheading the king.

Mr. Scroop said in his defence, that the High Court of Justice was erected by the parliament, which was then the supreme authority of the nation, and generally submitted to, and what he had done was in obedience to that authority.

The Lord Chief Baron replied, that what he had offered in his defence tended rather to aggravate than extenuate his crime; that he, as well as others, was mistaken in the word parliament; there was not one precedent of any other House of Commons assuming legislative power, or making an act to erect a court of justice for the trial of their king; and besides, there were but forty-six even of the Commons that sat in the House: two hundred and forty were excluded; so that they had no pretence to be called a House; that the lords also were then in being, and rejected that pretended act under which they would shelter themselves; and of the forty-six commoners that remained in the lower house, there were not more than five or six and twenty that were for erecting that court; and these men had taken the oaths of allegiance and supremacy, and sworn to defend the king, his crown and rights, against all persons whatsoever; that they had acknowledged, in the oath of supremacy, that the king was the supreme governor of these nations, and sworn that they would maintain all the privileges, immunities, and pre-eminences annexed to the imperial crown of this realm; and those who pretended that men, by breaking through all the ties and obligations of allegiance, could gain any lawful authority, must speak against the light of their consciences, and all laws divine and human. Mr. Scroop said, if he had been misled, he was not the only person,

He saw a great many faces that were misled as well as himself, and he hoped an error in judgment would not be accounted malice. He never went to work with a malicious intent, or bore malice to his late Majesty ; but the Lord Chief Baron told him, that though this might be some excuse for him before God, in law the fact itself implied malice ; and the jury, without going out of court, found him guilty.

Then Mr. John Carew was brought to the bar, and the king's counsel having opened the indictment, the witnesses deposed, that the prisoner sat as one of the late king's judges, in the pretended High Court of Justice ; that his hand was to the warrant for summoning the said court, and to the warrant for beheading his late Majesty, and that the prisoner was a member of the long parliament.

Mr. Carew, in his defence, seemed much offended that it was said in the indictment he had not the fear of God before his eyes, but was moved by the devil to murder the king, and averred, that what he had done was in the fear of the Lord, and in obedience to his holy and righteous laws. He confessed that he did consent to be one of the late king's judges, first, in obedience to the Lord, and secondly, in obedience to that which was then the supreme authority of the nation ; that the matter in question had been controverted in the face of the whole world, and the Lord had given an answer, upon solemn appeals ; and was entering upon the grounds and reasons of the war ; but the court let him know, that they must not hear him make discourses in justification of a horrid and notorious treason ; and as to his having acted in the fear of the Lord, they bid him remember, that the devil appeared sometimes as an angel of light, and that he should not be suffered to cast in bones of contention, to revive those differences which were but just laid asleep. That this treason had no relation to what was done by the lords and commons, at the beginning of the war, for the act under which he pretended to skreen himself was not made by the authority of either House ; there were but forty-six of the Commons in the House when it was debated, and not more than twenty-six that voted it ; which could never be understood by any one to be an

act of parliament ; it was no more than an order of a small remnant of the Commons, after they had excluded a vast majority.

The prisoner replied, since they would not suffer him to open the nature of these things, and the grounds he went on, which satisfied his own conscience that what he did was from the Lord, he left his cause to the jury, telling them, that the authority he spoke of was a rightful authority ; it was the supreme power : it was well known what they were ; concluding, he had desired to speak the words of truth and soberness, but was prevented. Then the court having observed to the jury that the treason was fully proved, both by witnesses and his own confession, they found him guilty, without going from the bar ; after which the court adjourned.

The court sitting again the 12th of October, Thomas Scot was brought to the bar, against whom the indictment being opened, and the jury sworn, several witnesses deposed, that the prisoner sat as one of the late king's judges, in the pretended High Court of Justice, and particularly on the 27th of January, when all the members stood up to express their assent to the sentence. Another witness deposed, that his hand was to the warrant for beheading the late king. Sir Theophilus Biddolph deposed, that he heard Mr. Scot say, in Richard's parliament, that he sat as one of the king's judges ; and he was so far from repenting of it, that he desired this inscription might be upon his tomb, viz. " Here lies Thomas Scot, who adjudged to death the late king." Colonel Copley testified the same thing, and that the prisoner added, he hoped he never should repent of the king's death.

The lord mayor elect, deposed, that on the last day of the sitting of the parliament, a little before his majesty's return to England, Mr. Scot, seeing the house must break, said, their heads must be laid to the block, if there was a new parliament ; I confess (said he) I had a hand in putting the king to death, and I desire all the world may take notice of it ; and when I die, that it may be written on my tomb. I do not repent of any thing I have done ; if it were to do, I could do it again. William Lenthall, Esq. also deposed, that the house being about to dissolve itself, Mr. Scot made a speech, justify-

ing the putting the king to death, but he did not remember the particular expressions mentioned by the other witnesses. Then the Lord Mayor further deposed, that this was the conclusion of Mr. Scot's speech in the house. "Being it is your pleasure to have it so (the house dissolved,) I know not how to hinder it; but when that is done, I know not where to hide this hated head of mine." Mr. Baker also deposed, that discoursing with Mr. Scot, in the time of Richard's Parliament, he said, he had cut off one tyrant's head, and he hoped to cut off another.

The prisoner said in his defence, that it was a breach of privilege to prosecute him in an inferiour court, for what he had said or done in parliament; but the court informed him, that for treason, or felony committed in the Parliament House, there was no privilege that could prevent his being tried for them in the courts of common-law; but that there did not want other evidence of his compassing and imagining the king's death.

Then Mr. Scot proceeded in his defence, and averred, that he never said, he hoped he should never repent of the king's death. But on the contrary, he had often, by prayers and tears besought the Lord, that if there were any iniquity in it, he would shew it him; that it was by the command and authority of a parliamentary power he sat as one of the king's judges; and this must justify him, whatever the nature of the fact was; that this court could not take cognizance whether they were a legal parliament or not; and he did not know but it might be as fit for that parliament to make laws, as the last, being called by the keepers of the liberties of the people of England; that if they were not properly a parliament, they were the legislative power, and their acts binding; that if two estates might exclude a third, as they had done the bishops, if the second did not continue to exercise their trust, they that were in, by occupancy might have a title to the whole, and continued to insist he had a parliamentary authority, a legislative power to justify him.

The court replied, that these things had been urged already, and that no single person or community, neither the people collectively, or representatively, had any coercive power over the king. That the assembly who made the pretended act, were not an eighth part of the

Commons House ; that the House of Lords was then sitting, and rejected it ; and therefore there was nothing like parliamentary authority to justify him. That forty highwaymen met together at Shooter's-hill, might as well pretend to parliamentary authority, as that little convention at Westminster. That the vulgar acceptance of the word parliament, had led many into mistakes, but that nothing could properly be said to be done by parliamentary authority, but what was done by king, lords, and commons. And as to what the prisoner mentioned, concerning the ejecting the bishops, this was not all to the purpose, for the act was made by the consent of king, lords, and commons. And

Mr. Annesley put the prisoner in mind, that when the people appeared jealous that they intended to alter the government, the parliament called it "a black scandal cast upon them." And that the two houses caused a declaration to be affixed on all the churches in England ; that they held the government of king, lords, and commons, to be the fundamental government of this kingdom. Then the prisoner claimed the benefit of his majesty's pardon, but the court replied, it was very odd to talk of a pardon, after such a justification. That the king's proclamation could not be pleaded in bar to the proceedings of the court. They could take no notice of a pardon that was not under the broad seal, though they did not doubt his majesty would inviolably make it good, if he appeared to be within it. Then the Lord Chief Baron directed the jury, and took particular notice of the aggravating speeches of the prisoner, his justifying the king's murder, and wishing the action might be engraven on his tomb. And the jury thereupon found him guilty.

Then Gregory Clement was brought into court, and pleaded guilty.

John Jones also, being set to the bar, offered to make a partial confession, which the court not accepting, the jury was sworn, and the witnesses produced, who deposed they saw the prisoner sit as one of the late king's judges, in the pretended high court of justice. His hand also was proved to the warrant for summoning the court, and to the warrant for beheading the king ; and the jury found him guilty.

Then all the prisoners, that had been tried after Har-

rison, were set to the bar, and it was demanded what they had to say, why judgment should not pass upon them. To which they generally answered, they threw themselves on the king's mercy. And the Lord Chief Baron made a speech to them on the occasion, in which he set the horrid crime the prisoners were convicted of, in a proper light; he told them the king they had murdered, was a person of eminent parts and virtues, that would have rendered him admired even in a private station. That his clemency appeared in the beginning of his reign, and if they looked back, they would find the people enjoyed greater peace and prosperity in his days, than in the reigns of former princes; that but one nobleman had been put to death in his time, and that for an offence not to be named. That they might remember the king had, before the wars, redressed every grievance they could complain of, the star-chamber, high-commission, ship-money, the claim of Stannery, &c. That they would do well also to reflect what concessions his majesty made at the Isle of Wight; how he wooed and courted the people to obtain peace. And that they should kill their king, and such a king, they ought to lay it to heart, and consider with themselves, for though they pretended conscience, they should remember what our Saviour said, that the time will come, when they will persecute you and kill you, and think they do God good service. That there was such a thing as spiritual pride, and men might be over-run with an opinion of their own holiness, and go by pretended revelations, and say they prayed about such a thing, and found no remorse or reluctance, as the man in Shropshire, who murdered his father and mother, when he was questioned for it, alledged, he had prayed against it, and could not understand it to be a sin. And therefore he exhorted the criminals to try their spirits, and examine the fact by the word of God, and not think every fancy and imagination to be conscience. After which, the usual sentence in high treason was passed upon them, and the court adjourned.

The court meeting again the 14th of October, John Cook, Solicitor to the regicides, who preferred the charge of high treason against the late king, was brought to the bar; and not challenging any of the pannel, the first twelve were sworn of the jury. Then the solicitor-general

opened the indictment, and observed, that this was the man who exhibited that wicked instrument, called a charge of high-treason against his late majesty in the name of all the people of England; that he aggravated the charge, and would not suffer his majesty to speak in his defence. Told the king, he endeavoured to spin out delays, and desired the charge might be taken *pro confesso*. That this was the man that pressed the pretended court to give judgment against the king, and demanded that wicked judgment before it was pronounced; and though he had acknowledged his majesty to be a wise and gracious king, yet declared, that he must die, and monarchy with him. That this was the prisoner's part, who had also received wages, and a reward for his iniquity. Then the witnesses were called, who deposed, that the prisoner exhibited an impeachment, or parchment-writing, to the pretended high court of justice, which was called a charge against the king, and the said charge being now produced, it was proved, that Cook's hand was subscribed to it. That he often interrupted his majesty, and prayed that the charge might be taken *pro confesso*; and for several days pressed for judgment against his majesty.

It was testified also, that Cook charged his majesty with being guilty of the highest treasons and crimes, that ever were acted on the theatre of England, and pressing that judgment might be given against his Majesty, said, that it was not so much he, as the innocent and precious blood that had been shed, that cried for judgment against the prisoner at the bar, the King. And one Starkey, of Gray's-inn, deposed, that, discoursing with Cook about his being made solicitor-general, he answered, he was serving the people, that he would see strange things, and that he must wait upon God: he did acknowledge the King was a wise and gracious prince; but he said, he must die, and monarchy with him.

But Cook cross-examining Nutley, one of the witnesses, Nutley deposed, that he heard the prisoner say, he hoped they did not intend to take away the King's life: that he (the prisoner) laboured against it; and they told him, they only intended to bring him to submit to the parliament.

The prisoner further said in his defence, that the

words he used at that proceeding, were not his own; he was directed what he should speak, and he hoped he might make much the same plea St. Paul did, that against Cæsar or against the law, he had not offended at all: for first, he was commanded to do what he did, and acting only within his own sphere as a counsellor, by the command of the then supreme power, he could not be guilty of treason: Secondly, words could not amount to treason; and though it was said, his hand was to the impeachment, he thought that was not well proved: He insisted further, that one who writes or speaks words dictated by another, (though they might be in their own nature treasonable) yet they were not treason on the writer or speaker, because they did not discover a traitorous heart; and he appealed to God, if he used one irreverend expression towards his Majesty, or styled him, the prisoner at the bar, as the witness had sworn: that a counsellor was to make the best of his client's cause, and leave it to the court; and counsellors did frequently engage in business, before they rightly understood the fact: he appealed to the counsel, if they had not many times been sorry that a verdict had been given for their client, when they discovered the right lay on the other side; and this might be his case. Had it been a time of peace, he acknowledged this would have been treason; but his Majesty being in the power of the army, the drawing up a charge against him, and desiring justice, and that he might be brought to a speedy trial, in order to his acquittal, was rather a service to his Majesty than treason against him. He urged further, that what he had done in that matter was for his fee, and not of malice; though it might be called *avaritia*, it could not be called *malitia*. He did nothing judicially, but ministerially. But conscious his defence was very weak, he said he laid hold on his Majesty's declaration at Breda, wherein he promised to pardon all who were not excepted in a free parliament; and he observed, that this convention, not being called by the king's writ, was not such a parliament as could make the exception; concluding, that human justice did never punish so much for expiation as prevention, that others might be deterred from commit-

ting such acts; that now all things were settled, there could be no danger in sparing him, the like case could never happen again.

The king's counsel, in their reply to this defence, said, that the prisoner mistook his charge, if he thought it was only for words; it was for compassing and imagining the king's death, and the evidence of that charge was, his meeting in an assembly of the regicides, and the part he bore in that assembly. Nor was it a general rule that words were not treason; for if a man declare the imagination of his heart, by exhorting and persuading men to kill the king, there could not be a greater overt act than such words, or a clearer evidence of his traitorous imagination. And as to his innocence in simply demanding justice, they were to observe, that the subject matter was a charge of high treason against the king; he prayed that the king, as a traitor, might be brought to justice; pressed that the charge might be taken *pro confesso*; and whether Mr. Cook could intend this in order to the acquittal of his Majesty, he left the jury to determine.

As to the prisoner's laying hold on his majesty's letter or declaration from Breda, that could not amount to a pardon, not being under the broad seal; neither would the words it contained have amounted to a pardon, if they had been under the broad seal: besides, it appeared by the King's letter, that he intended such as should be excepted by that very parliament his letter was directed to, and the prisoner was expressly excepted by name; his majesty therefore was not obliged even in honour to spare him.

That the jury should consider the case as their own: The prisoner had exhibited a charge against his late majesty, in the name of all the people of England, of whom they were part, and they ought to let the world know, that the people of England had no hand in that charge: that they should consider how the prisoner had hunted after the King's life; how he had fished for evidence against him, aggravated the charge, was afflicted at the delays, and angry when he was interrupted.

And as to the prisoner's saying, he pleaded for his fee, Judas too had thirty pieces of silver, for which he hanged himself; and it was the highest disgrace he could throw upon the long robe, to shelter himself under his

profession: that indeed it was an aggravation of his crime, that he, who knew the law so well, should so grossly transgress it: that Mr. Cook in advising the act, was as instrumental, as much a traitor, as the man in the frock that did the execution: that a counsellor indeed was not always bound to know the judge's patent; but here was no colour of a legal proceeding, nothing but a mock court of justice, such a one as Mr. Cook never met with in all his reading: they knew of no law under heaven for putting the king to death, though they endeavoured to shelter themselves under a colour of justice, to do the most execrable treason in the world.

The Lord Chief Baron, in summing up the evidence, observed, that when Cook demanded justice against the king, he had charged him as a tyrant, traitor, murderer, and common enemy; that those who spit in the King's face, also demanded justice; but every man knew what they meant by justice: that the prisoner had also urged, that it was not so much he, as the blood that had been shed, that cried for judgment; and whether the prisoner meant a judgment for the King's acquittal, he left to the jury: he noticed also the prisoner's answers to Starkey, when he expostulated with him about being concerned in the King's murder, viz. You shall see strange things; you must wait upon God: this, the Chief Baron observed, was then the canting language of those who were about to commit some horrid impiety, and from that other expression, the King must die, and monarchy with him, it appeared it was monarchy and government they hated: many of those who sat upon the late King, acknowledged he was a gracious prince; they did not hate his person any more than the prisoner, but monarchy was the thing they would behead.

That as to his having acted by the authority in being, and citing the 11th Hen. II. which provides, that he who serves a king for the time being in his wars, shall not be punished; that act was expressly against him; for that act was made for the preservation of a king *de facto*, much more of a king *de jure*; and the person they had styled their prisoner, they had owned to be their king; they charged him as king, and sentenced him as king. That king Henry VIIth's care was to preserve even a king *de facto*, and kingly government; it was not

in favour of an antimonarchical government. The regicides proceeded against their own king, as their king; calling him, in their charge, Charles Stuart, King of England; and therefore there was no colour that the prisoner should have any benefit of the letter, or the equity, of 11 Hen. VII.

However, Mr. Cook, being indulged the liberty of replying to the Chief Baron, said, though their lordships were pleased to lay no weight on the orders or authority by which he acted, he did then act truly and conscientiously, and thought that authority would have borne him out; though the court were pleased to look upon them as a parcel of people without authority, his judgment was not yet convinced as to that point; and that all the words he spoke were dictated to him, even those, that it was not so much he, as the innocent blood, that cried for justice.

To which the Chief Baron said, he made his case rather worse; that they had delivered their opinions already; that the acting by such an authority, was so far from being an extenuation, that it was an aggravation of the crime; that his expressing his approbation of that power, and acting under it, were the very things with which he was charged: and the jury, after a very short recess, brought in the prisoner *Guilty*.

Hugh Peters, Cromwell's chaplain, being brought next upon his trial, made no challenges to the jurors; whereupon the first twelve of the panel were sworn, and charged with the prisoner: then the king's counsel produced their evidence. And first,

Dr. W. Young deposed, that Hugh Peters, the prisoner, lay sick at his house in the year 1649, and that he remained in his family six or seven weeks after his recovery, there being a great intimacy between them; that the prisoner, about that time, told the deponent, he was sent over from New England to foment a civil war, and drive on their reformation; that he was afterwards sent over to Ireland by the parliament, to carry on their designs there, and that he had spent nearly 3000*l*. in that service, for which he had only received a small pittance, in land, out of the Lord Worcester's estate; that the prisoner used to say, while he resided with the de-

ponent, "it would never be well till the lords, the Levites, and the lawyers, were put down;" that the prisoner was a colonel under Cromwell (as well as a preacher) and having an authority to raise forces for the war in Ireland, would have had the deponent accept a commission to serve under him: that the prisoner informed the deponent, when the late king was taken from Holmeby House, the parliament had a design to have seized Cromwell and himself; but having notice of it, they made their escape out of London, riding hard for it as far as Ware, where they considered how they should dispose of the king; and came to a resolution, "they would try him for his life, and cut off his head."

Mr. Starkey deposed, that the head-quarters being at Windsor, a little before the king's trial, Ireton lay at his father's house there, and that Cromwell and the general officers used to hold their councils of war at his father's; that after these councils rose, there used to be a private consultation, at which Cromwell, Ireton, the prisoner, Colonel Rich, and a fifth person, assisted; and they generally sat up till two or three in the morning; and he believed it was this private cabal that contrived the business against the king: that the prisoner frequently came with Ireton, and dined and supped with him, at his father's, with the family; and talking of the King, Peters used to say, "the king was a tyrant and a fool, and not fit to be a king; and that it was a dangerous, chargeable, and useless office:" that Ireton and Peters being at supper at his father's, when news came that the king was made prisoner in the Isle of Wight, his father, instead of saying "God save the king, prince, and realm," as he usually did after his grace, (at which Ireton and Peters used to laugh) said, "God save the king's most excellent majesty, and preserve him out of the hands of all his enemies:" whereupon Peters said, "old gentleman, your idol will not stand long."

Walkley deposed, that he saw Peters at the consultations with the regicides, in the painted-chamber, before the king's trial; that when the king was brought to London, he saw him riding in a triumphant manner before the coach the king was in: and at another time, he saw Peters marshalling the soldiers in St. James's Park,

and heard him say, "if we can but keep up our army seven years longer, we need not care for the king and all his posterity."

Simpson deposed, that he saw the prisoner at several consultations concerning the king; and that, at the king's trial, he heard him bid Colonel Stubberd to cry out—"justice, justice, against the traitor at the bar:" that the soldiers cried out as they were directed; and, as the king was going back to Cotton House, some of them spit in his face, which he wiped off, and smiled.

Richardson deposed, that he saw the prisoner standing in the high court of justice; that he commended Bradshaw's carriage; and holding up his hands, said, "this is a most glorious beginning of the work." And Sir Jeremy Whichcot deposed, he heard the prisoner say, "I cannot but look upon this court with great reverence, for it doth resemble, in some measure, the trials that shall be at the end of the world by the saints:" that the prisoner seldom spoke of the King, but he called him tyrant; and said, he would have preached before him (the king) but the poor wretch would not hear him.

Nunnely deposed, that he saw Peters in the banqueting-house, about an hour before the king was beheaded; that he went out upon the scaffold, and came off again; and whispering the joiner who erected it, the joiner immediately knocked down four staples upon the scaffold: that after the king's head was cut off, the deponent saw the vizards go into a chamber, and he thought he saw Peters come out of the same chamber an hour afterwards; but he was sure he saw him go with the hangman to take water.

Stephen Clough deposed, that Peters, in his prayer before a council of officers at Westminster, said, "O Lord, what a mercy is it to see this great city fall down before us! and what a stir is there to bring this great man to trial; without whose blood he will turn us all into blood if he reign again!"

Beaver deposed, that the prisoner preaching before the two houses, on a fast-day, a little before the act was made for the king's trial, he said, "It was a very sad thing, that it should be made a question among us, as among the old Jews, whether our Saviour, Jesus Christ,

must be crucified, or that Barabbas should be released, the oppressor of the people: O Jesus (said he) where are we, that that should be a question? and because you should think, my lords and gentlemen, that it is a question, I tell you it is a question: I have been in the city, which may very well be compared to Jerusalem; and I profess these foolish citizens, for a little trading and profit, will have Christ (pointing to the red-coats on the pulpit stairs) crucified, and that great Barabbas, at Windsor, released. I do not much mind what the rabble say; but I have been with my brethren, the clergy, in the assembly, and I perceive they are for crucifying Christ also, and releasing Barabbas. O Jesus, what shall we do now!" Then addressing himself to the lords and commons, he said, "you are the Sanhedrim, the great council of the nation; therefore you must be sure to do justice; it is from you we expect it: you must not only be the inheritors of your ancestors; but you must do as they did: they opposed tyrannical kings, and destroyed them. It is you that we chiefly expect justice from. Do not prefer the great Barabbas, murderer, tyrant and traitor, before these poor hearts" (pointing to the soldiers again): and that for two or three hours he harangued his audience, pressing them to bring the king to a speedy trial, and to punish him capitally.

Mr. Chace deposed, that he heard the prisoner preach before Cromwell and Bradshaw, on the 20th of January, 1648, on that text in the Psalms, "Bind your kings in chains, and your nobles in fetters of iron:" and observed, that the next psalm had twelve Hallelujahs, which were intended, he said, to express their joy, "that kings were bound in chains," &c. He told them also the common story of the mayor that laid the bishop's man by the heels for being drunk; and when the bishop complained of it, the mayor answered, there was an act of parliament for it, and neither the bishop nor his man were excepted out of it; and so (says Peters) here is a great talk in the world. What, will you cut off the king's head—the head of a protestant prince? Turn to your bibles, and you shall find, "whosoever sheds man's blood, by man shall his blood be shed." As the mayor said of the bishop and his servant, I see neither King

Charles, nor Prince Charles, nor Prince Rupert, nor Prince Maurice, nor any of that rabble, excepted out of it: and added, "this is the day that I, and many saints of God, have been praying for these many years:" and the deponent observed, that Cromwell laughed heartily at these flights.

Tongue deposed, that he heard the prisoner preach at Whitehall, the 21st of January, 1648, on that passage, "bind your kings in chains," &c. and said, he hoped to see such another day as the day before (when the king's trial began): that he blessed God the lower house was purged, and assured them the house of lords would down suddenly.

The prisoner in his defence said, he was sent from New England to solicit the affairs of that country here: and indeed, at the importunity of the London ministers, after his arrival, he was active in the troubles that followed; but they were much deeper engaged in that affair than he was. He was sorry to hear himself charged with that behaviour towards the late king, and begged pardon for his folly and weakness; but said, he had no malice or mischief in his heart against him: that he had always acted with honour and respect towards his majesty, particularly when he was at Windsor; and had proposed three ways to his majesty to extricate himself out of the difficulties he was in; but he did not approve of them: that he was none of those who sat in the high court of justice, or brought the king to that unhappy end: and lastly, he observed, that there was but a single witness to any one fact.

To which the king's counsel replied, that some facts had been undeniably proved against him: that the meeting and consulting together about the king's death; or the giving aid, comfort, or encouragement to those traitors, made him guilty of the whole charge, in the eye of the law; though he did not sit in that high court, or sentence the late king: and that, whatever speeches he had uttered, either in the pulpit, or out of it, tending to sedition and rebellion, were such overt-acts as proved the treasonable imagination of his heart, with which he was charged: that though there ought to be two witnesses in treason, there need not be two to every fact; but in his case there had been several witnesses

produced to one fact—so that this objection carried no manner of weight with it.

That his being in arms against his majesty, had not only been proved by several witnesses; but he had confessed it. It was proved also, that he had called the day of his majesty's trial, "a glorious day," and resembled it to that great day, wherein the saints should judge the world; that he had often prayed for it also; so that no man could be said more justly to have conspired and contrived the death of the king, than this miserable priest had done: the honour of the pulpit therefore ought to be vindicated. His death would preach better than his life had done; it might be a means to convert many a deluded man, whom his preaching had seduced; for several had been brought to that bar, who averred, that what they had done, was in the fear of the Lord; and now it appeared who taught them, and led them into these pernicious errors: they hoped therefore the court would make an example of this carnal prophet: and the jury being withdrawn, in a very little time found the prisoner guilty. Whereupon the king's counsel moved, that Cook and Peters might receive judgment together: and the Lord Chief Baron having made a speech to the prisoners, wherein he observed they had had a liberal education, and therefore could not be ignorant how grossly they had offended against the laws of God and man, by being instrumental in the king's murder, pronounced sentence on them as traitors: and then the court adjourned.

On the 15th of October, Daniel Axtel was brought to the bar; and a jury being sworn, and charged with the prisoner, the king's counsel opened the indictment and the evidence; after which the witnesses were produced, who deposed, that Colonel Stubberd and Axtel commanded the guards that were drawn up in Westminster-hall, for the security of the pretended High Court of Justice, at the king's trial; that upon exhibiting the charge against the king, in the name of all the Commons of England, a lady (said to be the Lady Fairfax) cried out, it was a lie; not a quarter of the people were concerned in it: Oliver Cromwell was a rogue and a traitor; whereupon the court called to the guard, and Axtel their commander ordered some of his soldiers to

present their pieces at the lady, and bid her unmask. Other witnesses deposed, that Axtel said, "Down with the whores; shoot them;" that he was more active than any of the officers, and stood laughing with his soldiers, and scoffing aloud when the king asked to be heard; and when the king bid his pretended judges remember he was their lawful king, Axtel ordered the soldiers to cry out, "Justice! justice!" and beat those that refused; and that the last day of the trial, he made his soldiers cry, "Execution! execution!" A witness also deposed, that the prisoner commanded a company of soldiers in the banquetting-house, during the king's execution, and that he was the man that sent for the executioner. Another witness testified that Axtel said Hewlet beheaded the king; and Colonel Huncks made oath that Cromwell bidding him (the deponent) sign the order for the king's execution, and threatening him for refusing it, Axtel said to the deponent, "I am ashamed of you; the ship is now coming into harbour, and will you strike sail before you come to anchor?"

Axtel in his defence said, that Huncks was a perfect stranger to him, and that he did not remember his having said any such words as he had testified; that the statute of 25th Edward III. on which he was indicted, concerned only private persons who compassed the king's death; but here a war was entered into, an army raised by authority of parliament, who had declared the militia was of right in them; that he acted by commission from the parliament's general; a parliament called by the king's writ, chosen by the people, and by an act that could not be dissolved but by their own consent; that this parliament was in being when the king's trial happened, and was not yet legally dissolved. He conceived that their authority was acknowledged at home and abroad, and the judges, the interpreters of the law, acted by their authority; and he hoped this was sufficient to bear him out; that what he had done was as a soldier; he derived his power from his general, who had his from the fountain, namely, from the Lords and Commons; if he was upon the guard at the king's trial, it was by the command of his general, not voluntary; he was not a contriver, counsellor, parliament-man, or

any of the judges that sentenced the king; nor had any hand in his execution; and if it was such an offence to have a command in the army, General Monk and the other generals were as criminal as he, and all the people who acted by the same authority in the three nations; that if he was guilty of treason, the Commons in parliament began the treason; and if the representative body were traitors, then were the people whom they represented so too, and there would not be found a jury to try the cause. And though it had been objected to him, that they had destroyed both Lords and Commons before the fact was committed, the commission which authorized him to obey his general was given him while the Lords and Commons sat in parliament; and he did but his duty in being with his regiment in the Hall. If the general had commanded him to take that post, he must have died if he had refused, and it was hard he should be in the same danger when he obeyed.

He still insisted, that he had not advised or compassed the king's death; that he neither sentenced him nor signed the warrant for his execution; nor was he concerned in the violence put upon the House of Commons; they were his superiors that put that force upon the House; he was then an inferior officer. And as to what had been sworn concerning silencing the lady who made the disturbance, he said, if the lady talked impertinently, and he desired her to hold her tongue, he hoped this was not treason, especially as he was commanded on pain of death to keep the peace.

As to the witnesses deposing he laughed and scoffed while others sighed, he believed he had as deep a sense of what was transacted that day, as others; but if he had smiled, he hoped that was not treason; and he hoped it would appear he beat his soldiers for crying "Justice! justice!" and not to make them cry "Justice." However, if he did encourage them to demand justice and execution, the execution of justice was a glorious thing; justice was one of the great attributes of God, and the desiring of it could be no crime. The sending for the executioner he absolutely denied, and averred he was never at any consultation about the king's death. This he said was managed by Ireton, Harrison, and Cromwell,

among themselves; nor could he ever tell any one that Hewlet executed the king, being perfectly ignorant what persons were concerned in the execution.

He observed further, that the words "justice" and "execution," being spoken without application to any person or thing, were of an uncertain signification, and might bear a good as well as a bad construction; and in favour of life, the best sense ought to be put upon them. And lastly, he insisted that his Majesty had promised to pardon all that were not excepted by parliament, which must be intended, he conceived, of a legal parliament, called by the king's writ, which this was not, and consequently could not except him out of the pardon promised by the king.

The king's counsel, in their reply to the prisoner's defence, said they did not charge him with what he had done by virtue of his commission, but with those violent acts of encouraging the soldiers to cry for justice and execution, and those other acts which manifested his malice against the king; that he was not indicted for levying war, but for compassing the king's death; and the overt acts above mentioned were given in evidence to prove it; nor could there be any excuse for committing treason; his commission could not warrant his doing a treasonable act; he was obliged to take notice whether the authority by which he acted was good or not; neither did his commission empower him to put the king to death, but he was obliged by the tenor of it to preserve him; that those very lords and commons under whom he would shelter himself, made protestations and declarations, and had imposed and taken oaths for the preservation of the king's person, which he could not but take notice of. He must remember also, that the army came with their swords in their hands to the House, and turned out whom they pleased, excluding far the greatest part of the members, and laid the Lords aside; after which forty-six of the Commons took upon them to sit, and only twenty-six voted that ordinance which he pretended to act in obedience to. And lastly, that it was impossible to mistake what he meant by crying for justice and execution; whereupon the jury, after a very short recess, brought the prisoner in guilty.

Then Colonel Francis Haeker was brought upon his

trial, and making no challenges to the jurors, the first twelve in the panel were sworn; after which the king's counsel opened the indictment and produced their witnesses.

Colonel Tomlinson deposed; that Colonel Hacker, the prisoner, was one of the halberdiers that guarded the king at Cotton-house, and from thence to his trial, before the pretended High Court of Justice in Westminster-hall; that the day appointed for the king to die, the halberdiers brought his Majesty through the Park from St. James's to Whitehall; that Colonel Hacker, by virtue of the warrant for the king's execution, led him out of Whitehall to the scaffold erected before the Banquetting-house.

Mr. Secretary Morrice and the Lord Annesley deposed, that the prisoner Hacker acknowledged before them, that he signed the warrant to the executioner to behead the king, but said he did not remember the name of the man: another witness deposed, that Colonel Hacker seemed to have the principal command on the scaffold, when the king was beheaded.

The prisoner said in his defence, that he was a soldier under command, and what he had done was by virtue of a warrant from the High Court of Justice; that he did not deliver the warrant or order to the executioner, or knew who he was, and was neither counsellor, abettor, or adviser of the fact.

But the Chief Baron, in his directions to the jury, told them, if the prisoner who brought the king to the scaffold, and who had the care and management of the business, and signed the warrant to the executioner, was not guilty of compassing the king's death, no man could be said to be guilty; and the jury being withdrawn a little while, brought in their verdict, that the prisoner was guilty.

Then William Hulet, or Hewlet was set to the bar, and the jury being sworn, the king's counsel took notice, on opening the evidence, that this was the man in the frock and vizard, that cut off the king's head; to prove which Richard Gittens was sworn, who deposed, that he and Hulet were serjeants in the same regiment twelve or thirteen years; that a day or two before the king was murdered, Colonel Hewson commanded eight-and-thirty

serjeants, (of which number were the deponent and the prisoner) to take an oath of secrecy; which when they had done, he demanded if any of them would undertake to execute the king, promising a reward of an hundred pounds, and preferment in the army, to him that should do it; and every man refused; however, they understood afterwards that Hulet accepted the office; that the day the king was murdered, the deponent was one of the guards drawn up in the Banqueting-house; that he got upon the scaffold when his Majesty was brought thither, and heard his Majesty say to one of the executioners, "Is the block fast?" and Hulet, as the deponent believed, was the man who fell upon his knees and asked the king forgiveness. The deponent thought it was Hulet, by his speech, and the proportion of his body; and what confirmed him in that opinion was, that Hulet was not seen in the regiment that day; but that the executioner, whoever he was, had a pair of freeze trunk breeches and a vizard on, with a grey beard; and Colonel Hewson used afterwards to call Hulet father greybeard, as did most of the soldiers in the army.

Stammers deposed, that Hulet was Captain-Lieutenant of Colonel Hewson's own troop, and that he (the deponent) entering himself in the same troop at Dublin, about nine or ten years since, Hulet some little time after, sent for him to his chamber, and among other conversation told him, that he cut off the king's head, and had an hundred pounds for it: but Hulet desiring him to name the man he sent for him, Stammers said he could not remember the man.

Captain Toogood deposed, that in the year 1650, being in Dublin Castle with Colonel Hewson, Hulet the prisoner came in, and the deponent observing an extraordinary familiarity between them, upon Hulet's going away, asked Hewson, who he was; and the Colonel answered, he had made him his lieutenant, from a serjeant: he was a mettled fellow; it was he that did the king's business on the scaffold: the deponent added, that Colonel Pretty also told him, that Hewson assured him, Hulet either cut off the king's head, or held it up, and said, Behold the head of a traitor: and that the deponent talking with Hulet himself at Carlow in Ireland,

concerning the execution, Hulet said, What I did, I will not be ashamed of; if it were to do again, I would do it: that discoursing with Hulet at another time, concerning the king's death, he said, it was true, he was one of the persons disguised upon the scaffold: and if the king had refused to submit to the block, there were staples fixed in the scaffold, and he had that about him, that would have compelled him to submit; and at another time Hulet said, he should not deny the business of the King's death, call him to an account when they would.

Davis deposed, that drinking at a tavern in Dublin with Captain Hulet, and asking him, if he took up the king's head, and said, Behold the head of a traitor; Hulet answered, it was a question he never resolved any man, though often demanded: however it was no matter who said it; I say it now, it was the head of a traitor.

Lieut.-Col. Nelson deposed, that discoursing with Colonel Axtel, concerning the person that beheaded the king, Axtel said, they would not employ men of mean spirits, they did not know; but pitched upon Hulet and Walker, two stout fellows, their serjeants: that Walker gave the blow, and Hulet held up the head; and they had 30l. a piece, or 80l. between them.

Benj. Francis deposed, that the Vizards were clothed alike in woollen frocks, close to their bodies, like butchers: one of them had a black beard, and the other a grey beard and peruke; and that grey-beard, who cut off the king's head, was about the size of Hulet the prisoner; and Burden deposed, that Hulet was not seen among the soldiers, either the day the king was murdered, or the day after.

The prisoner in his defence said, he never discoursed with any one of the king's death, but Stammers; who charging him with being one of the vizards, he answered, you do me wrong; and Stammers saying it was a just act, he, (the prisoner) replied, whether it was so or not, he had nothing to do to justify it.

He said further, that he could prove by a very good token, that he was in another place when the king died; for he and seven or eight serjeants more were made prisoners that day, because they refused to be upon the scaffold; and that he would prove by forty witnesses,

that it was another man that did the fact, if they would give him time.

Then several witnesses were called on behalf of the prisoner, and particularly one of the sheriff's officers, who deposed, that drinking with the common hangman, a little after the king died, and asking him if he did the fact, the hangman answered, God forgive me, I did it; and I had forty half-crowns for my pains.

Smith, a waterman, deposed, that, as soon as the blow was given, a file of musketeers brought the hangman to the deponent's boat, and the soldiers said, Waterman, away with him quickly; that when he and his mate had got the hangman some distance from the shore, they asked him, if it was he that cut off the king's head, and he said No, as I am a sinner to God; and trembled every joint of him. He said, he was fetched to White-hall indeed by a troop of horse, and kept close prisoner there; and they had his instruments, but he did not do it: that the deponent thereupon said, he would sink his boat, if he did not tell him true; but the hangman persisted to deny it with several protestations.

Cox deposed, that when the Lord Capel was beheaded, he asked the hangman if he did not cut off his master's head, and the hangman said yes; and told him, that was the axe: whereupon the Lord Capel took the axe, and kissed it; and giving him five guineas said, Sirrah, Wer't thou not afraid? and the hangman answered, they made him cut it off, and he had 30*l.* for his pains.

Other witnesses deposed, they heard the common hangman acknowledge, he cut off the king's head. Then the prisoner desired he might have a fortnight's time to produce the rest of his witnesses; but was told, that could not be granted: and the jury withdrawing and debating the matter a considerable time among themselves, brought in the prisoner Guilty; and then the court adjourned.

The court sitting again at the Old-Bailey the 16th of October, Edmund Harvey, Isaac Pennington, Henry Marten, Gilbert Millington, Robert Titchburne, Owen Roe, Robert Lilburn, Henry Smith, John Downes, Vincent Potter, Augustine Garland, Simon Meyne, James Temple, Peter Temple, and Thomas Wayte, were brought to the bar, and one jury charged with

them all. Mr. Harvey, instead of making a defence confessed that he did sit in the pretended high court of justice: but said, he did not sign the warrant for beheading his majesty. He produced two witnesses also, who deposed, he endeavoured to prevent the sentence, and that he was under a great concern when it passed; and tendering a petition to the court, that they would intercede in the behalf of himself, his wife, and thirteen children, the court promised to present the petition to his majesty.

Isaac Pennington, the seditious alderman, also confessed, that he sat in the pretended high court of justice; and endeavoured to excuse himself, by alleging, he was drawn in by others, and had no malice against his majesty; and made a merit of it, that he absolutely refused to sign the warrant for beheading of him, though he was much importuned to do it.

Henry Marten confessed the fact; but said, he did not do it maliciously, murderously, and traitorously, as was laid in the indictment: to which Mr. Solicitor replied, that Marten thought he might sentence the king to death, and sign a warrant for his execution, meekly, innocently, charitably, and honestly; and because he endeavoured to wipe off the malice, they would prove that he did it merrily, and was in great sport at the time of signing the warrant for the king's execution.

Ewer deposed, that being in the Painted-Chamber, the 29th of January, 1648, when the warrant for the king's execution was signed, he saw Cromwell mark Marten's face with a pen, and Marten marked Cromwell's face.

Sir Purbeck Temple deposed, that at a consult of the regicides, in the Painted-Chamber, just before the king's trial, Cromwell said, the first question the king would ask, would be, By what authority they tried him; and demanded, what answer they should give to it? And that after some pause, Marten, the prisoner, said, in the name of the commons in parliament assembled, and all the good people of England; which was the answer afterwards made to his majesty, in their mock-court in Westminster-hall.

Marten, in his defence, said, that according to the little law he had, no fact could be a crime in itself, but as it was circumstantiated: and that his being in sport

when the warrant was signed, did not imply malice : that the commission they acted by, was in the name of the commons assembled in parliament, the then supreme authority : and he that gave obedience to the supreme power *de facto*, whether it was so *de jure*, or not, might be deemed of a peaceable disposition, and was far from being a traitor. That the statute of Henry VII. indemnified those that were in arms for a king *de facto* : and if the supreme officer *de facto* might justify a war, he presumed the supreme authority of England might justify the erecting such a judicature, though it was but an authority *de facto*. And as to the objection, that it was but a third estate, and a small part of that ; yet it was all that was extant : and he had heard lawyers say, where commons were appurtenant to a tenement, and the tenement burnt down, so that only a small stick remained, the commons belonged to that one stick, as if the whole tenement was standing : that the king was not then such a king, whose peace, crown, and dignity, were concerned in public matters ; he was not then in the execution of his office, but a prisoner : he, the prisoner, had then, as now, a peaceable disposition, and resolution to submit to the government that God had set over him. He thought his present majesty's title the best under heaven ; for he was called in by the representative body of the nation ; and, whether his life were long or short, he should always pay obedience to him. He confessed he did adhere heartily to the parliament's army ; and his life was at the king's mercy ; and if the king pleased to give him his life, he should lie under a double obligation to his majesty ; and concluded with observing to the jury, that it was as much the interest of the crown, that the innocent should be acquitted, as the guilty condemned.

Then Mr. Solicitor having summed up the evidence, said, gentlemen of the jury, what does the prisoner say, in his defence, more than this ? The fact I have committed is such, that I durst not call it innocent ; but would have you believe it such. Was it your intention, gentlemen, that the king should be tried, as the prisoner moved ? It will concern you, therefore, to declare, that the people of England do abhor these facts and principles : all that the prisoner had said is, that there was an authority of his own making, whereby he becomes

innocent; but we hope out of his own mouth you will find him Guilty.

Gilbert Millington confessed himself guilty; but said in his excuse, that he was over-awed by the then powers; and preferred a petition for mercy which was accepted.

Rob. Titchburn also acknowledged his offence; but said he had no more malice against his majesty, than against the wife of his bosom: that he was ignorant of the law, &c. and begged for mercy.

Owen Roe, confessed his sitting in the mock court of justice, and signing the warrant for the execution; but said he was an ignorant tradesman, led away by others; and threw himself at the king's mercy.

Rob. Lilburne acknowledged his guilt; but urged ignorance in the laws as his excuse.

Henry Smith confessed the crime also, and said he was over-awed by the powers then in being; and begged the court would be mediators for him to his majesty.

Then the Lord Chief Baron summed up the evidence, as to Harvey, Pennington, Marten, Millington, Titchburne, Roe, Lilburne, and Smith; and the jury found them all Guilty.

After which John Downes was brought to the bar, who acknowledged his sitting in the pretended high court of justice; but said he was thrust into the number of the king's judges, and was never at any consultation about the matter: that it was he that moved so passionately, the king might be heard before the parliament, and caused the court to be adjourned; whereupon Cromwell stormed, and said, sure Downes did not know, that they had to do with the most hard-hearted man upon earth: that it was not fit the court should be interrupted by one peevish fellow: that the bottom of it was, he would fain save his old master, and threatened him severely.

Upon which the Lord Chief Baron observed, that notwithstanding these convictions, the prisoner proceeded to sign the warrant for beheading the king.

Vincent Potter confessed his sitting in the pretended court, and signing the warrant, but said he was not concerned in the contrivance, and threw himself upon the king's mercy.

Augustine Garland confessed his sitting in the court, and signing the warrant for the execution.

The King's counsel answered, they would not accept his confession, for they would prove that he was one of the men that spit in the King's face. Whereupon Clench was sworn, and deposed, that on the day of the sentence, when they were hurrying the King away, Garland came by, and spit in his Majesty's face; and the witness being asked, if he did it on purpose, answered, I suppose he did it somewhat suspiciously in that way: Garland replied, he did not know he was near the King, (which seems to admit he did it, whether accidentally, or not,) and if he was guilty of that inhumanity, desired no favour of God Almighty. He confessed, however, that he was in the chair, when the act passed for trying the King; but said, he was forced into it; and what he had done was out of fear of the powers then in being: that he never had any malice against his Majesty, or shewed any disrespect to him or his friends.

Simon Meyne also confessed his sitting in the court, and signing the warrant for the King's execution; but said he was under a force, and threatened in case he refused.

James Temple made the same confession, and tendered a petition for mercy.

Peter Temple made the like confession, but pretended he had no malice in his heart against the King.

Thomas Wayte confessed his sitting in the court, and signing the warrant for beheading his late Majesty; but said he was drawn in, and trepanned; and offered a petition to the King and both houses of parliament for mercy, which was accepted.

William Haveningham confessed his sitting in the pretended court, but said he was under a force; and that he did, however, refuse to sign the warrant for summoning the court, and for the King's execution; and begged the court to intercede for him to the King and parliament for mercy.

Then the jury withdrew, and in a little time returned with their verdict, that John Downes, Vincent Potter, Augustine Garland, Simon Meyne, James Temple, Peter Temple, Thomas Wayte, and William Haveningham, were all guilty.

After which, Sir Hardress Waller, Fleetwood, Hacker, Axtel, Hulet, Pennington, Marten, Millington, Titch-

burne, Roe, Lilburn, Smith, and Harvey, being called to judgment, the Lord Chief Baron acquainted them, that although he was to pass sentence of death upon all; yet as to all but three of them execution was to be suspended, till another act of parliament should pass for that purpose: and as to Mr Haveningham, one of the three, he thought no order would suddenly be given for his execution; but as to Axtel and Hacker, he said there was no room for them to hope for mercy.

Then he put the prisoners in mind of the oaths of allegiance they had taken to his late majesty; and that it had been declared by act of parliament, that the people, neither collectively or representatively, had any coercive power over the person of the king: that, in the oath of allegiance, they had acknowledged the king to be supreme, consequently there could be no power co-ordinate with him, much less superior to him: that no less than ten statutes called the crown of England an imperial crown; and that of 24 Hen. VIII. cap. 12, declared, it was subject to none but God Almighty. And so, 16 R. 2. &c. That the King of Poland, indeed, took an oath at his coronation, with a condition, that if he did not govern according to certain rules, the people should be freed from their allegiance: but the King of England was king before he took his coronation oath; and did not take it upon any condition, or was accountable to any but God for his actions: that the law declares, the king can do no wrong: not but that the king might have the imbecilities and infirmities of other men; but the king, in his single person, could do no wrong, such as would make him obnoxious to the laws, or accountable to any: but if the king commanded another to beat any person, or disseize him of his lands, there was a remedy against such a person, though none against the king. The law preserved the person of the king untouched, but whatever was done unlawfully by his ministers, there was a remedy against his ministers, for that the king was styled in our law books, *Caput Reipublicæ, Salus populi*, the Lieutenant of God, &c. And the Spencer's treason, that the king might be compelled to yield to the people's demands, had been condemned by two acts of parliament: that he did not press this, to insinuate that the king might do what he would, but to show them

that the person of the king was sacred, and not to be touched: and having exhorted the prisoners to repent of their horrid treasons, he pronounced sentence on all of them, except Haveningham, on whom judgment was pronounced the 19th instant.

Of all the Regicides, there were but ten executed about this time, viz. Harrison, Carew, Cook, Peters, Scot, Clement, Scroop, Jones, Hacker, and Axtel; as to Hulet, who was charged with cutting off the king's head, the evidence was held deficient.

Harrison was executed at Charing-cross on the 13th of October; Carew on the 15th of the same month; Cook and Peters on the 16th; Scot, Gregory, Clement, Scroop, and Jones on the 17th; all at Charing-cross: but Axtel and Hacker were executed at Tyburn the 19th instant.

Harrison cried out as he was going to execution, that he went to suffer in the most glorious cause that ever was in the world; and that there was more of God in it than men were aware of. Carew declared, that what he had done was of the Lord; and if it were to be done again, he would do it. Cook, while he stood upon the ladder, said, the most glorious sight that ever was seen in the world was, Jesus Christ upon the cross; and the most glorious, next to that, was to see a poor creature suffer in his cause; and that he believed an army of martyrs would willingly come from heaven to suffer in such a cause as he suffered for. Hacker said, if he had a thousand lives, he would lay them all down for the cause. Axtel thanked the Lord, no guilt lay upon his conscience. But some of them had raised themselves to this pitch by strong waters; and Hugh Peters was very drunk, when he was drawn to his execution; which occasioned Cook, who suffered with him, to say, here is a poor brother, that I am afraid is not fit to die at this time. Scroop, it seems, prayed for the king, and Jones acknowledged the justice of their sentence.

The bodies of some of the principal Regicides also, that died before the restoration, viz. of Cromwell, Bradshaw, Ireton, and Pride, were taken out of their graves, and dragged on hurdles to Tyburn, where they were hanged up, from ten in the morning till sunset, and then buried under the gallows.

An act also passed, to attain nineteen of the Regicides that fled from justice, and to confiscate the estates of those that died before the restoration.

The estates also of the Lord Mounson, Sir Henry Mildmay, and Mr. Wallop, who had been pardoned, as to life; with the estates of Sir James Harrington and John Phelps, not then apprehended, were also confiscated; and the Lord Mounson, Sir James Harrington, and Sir Henry Mildmay, were degraded from their honours and titles, and drawn upon sledges, with ropes about their necks, from the Tower of London, to the gallows at Tyburn, and from thence to the Tower again, on the 27th of January, 1661. And it was enacted, they should remain prisoners for life; but they had such powerful mediators at court, that they were not long after released out of prison, and great part of their estates restored them: and such was the gratitude and ingenuity of Mildmay, for all this grace, that he became one of the most implacable enemies King Charles II. had; which his majesty took notice of, when he came to present him with a seditious address afterwards.

But before the last mentioned act, for inflicting pains and penalties on these and the rest of the Regicides, was made, those who had been condemned and reprieved, being brought to the bar, and ordered to show cause why judgment should not be executed upon them; they answered, that they had surrendered themselves, upon his majesty's gracious declaration from Breda, and the proclamation afterwards published, by the advice of both houses of parliament, to render themselves; being advised that they would thereby save lives; and humbly craved the mercy of the two houses, and their mediation to his majesty: to which, it is said, that famous droll Harry Marten added, that he had never obeyed any proclamation before; and he hoped he should not be hanged for taking the king's word now.

And they were so fortunate, that the bill, that was brought in for their execution, was dropped at the second reading, whereby their lives were saved.

Three of the Regicides who had fled from justice, viz. Miles Corbet, Colonel John Okey, and Colonel John Berkstead, were afterwards apprehended in Holland, at the instance of Sir George Downing, (his majesty's re-

sident to the states in the year 1662,) and sent over to England; and having been out-lawed for high treason, a rule was made by the Court of King's Bench, for their execution at Tyburn.

These were the last of the Regicides that were punished capitally; and it was observed they died very penitent, exhorting the people to submit to his majesty's government.

REMARKABLE CASE OF WITCHCRAFT.

10th MARCH, 1662.

At the Assizes, held at Bury St. Edmond's, for the county of Suffolk, the 10th day of March, in the 16th year of the reign of King Charles II. before Sir Matthew Hale, Kt. Lord Chief Baron of his Majesty's Court of Exchequer; Rose Cullender and Amy Duny, widows, both of Leystoff, in the county aforesaid, were severally indicted for bewitching Elizabeth and Anne Durent, Jane Bocking, Susan Chandler, William Durent, Elizabeth and Deborah Pacey. And the said Cullender and Duny, being arraigned upon the said indictments, pleaded not guilty.

The evidence whereupon these persons were convicted of witchcraft, stands upon divers particular circumstances.

THREE of the parties above-named, viz. Anne Durent, Susan Chandler, and Elizabeth Pacy were brought to Bury, to the assizes, and were in a reasonable good condition; but that morning they came into the Hall to give instructions for the drawing of their bills of indictments, the three persons fell into strange and violent fits, screaming out in a most dismal manner, so that they could not in any wise give instructions to the court. And although they did after some certain space recover out of their fits, yet they were every one of them struck dumb, so that none of them could speak neither at that time, nor during the assize, until the conviction of the supposed witches.

As concerning William Durent, being an infant, his mother Dorothy Durent sworn and examined, deposed in open court:

That about the tenth of March, *Nono Caroli Secundi*, she having a special occasion to go from home, and having none in her house to take care of her said child, it then sucking, desired Amy Duny, her neighbour, to look to her child, during her absence, for which she promised her to give her a penny. But the said Dorothy Durent desired the said Amy not to suckle her child, and laid a great charge upon her not to do it. Upon which it was asked by the court, why she did give that direction, she being an old woman, and not capable of giving suck? it was answered by the said Dorothy Durent, that she very well knew that she did not give suck, but that for some years before, she had gone under the reputation of a witch, which was one cause made her give her the caution: another was, that it was customary with old women, that if they did look after a sucking child, and nothing would please it but the breast, they did use to please the child to give it the breast, and it did please the child, but it sucked nothing but wind, which did the child hurt. Nevertheless, after the departure of this deponent, the said Amy did suckle the child: and after the return of the said Dorothy, the said Amy did acquaint her, that she had given suck to the child contrary to her command. Whereupon the deponent was very angry with the said Amy for the same; at which the said Amy was much discontented, and used many high expressions and threatening speeches towards her, telling her, that she had as good have done otherwise than to have found fault with her, and so departed out of her house: and that very night, her son fell into strange fits of swooning, and was held in such terrible manner, that she was much affrighted therewith, and so continued for divers weeks. And the said examinant farther said, that she being exceedingly troubled at her child's distemper, did go to a certain person, named Doctor Jacob, who liveth at Yarmouth, who had the reputation in the country to help children that were bewitched; who advised her to hang up the child's blanket in the chimney-corner all day, and at night when she put the child to bed, to put it into the said blanket, and if she found any thing in it, she should not be afraid, but throw it into the fire. And this deponent did according to his direction, and at night when she took down the blanket with an intent to put her child therein, there fell out of the same a great toad, which ran up and down the hearth, and she having a young lad only with her in the house, desired him to catch the toad, and throw it into the fire, which the youth did accordingly, and held it there with the tongs; and as soon as it was in the fire it made a great and horrible noise, and after a space there was a flashing in the fire like gunpowder, making a noise like the discharge of a pistol, and thereupon the toad was no more seen nor heard. It was asked by the court, if that after the noise and flashing, the substance of the toad was not seen to consume in the fire? and it was answered by the said Dorothy Durent, that after the flashing and noise, there was no more seen than if there had been none there. The next day there came a young woman, a kinswoman of the said Amy, and a neighbour of this deponent, and told this deponent that her aunt (meaning the said Amy) was in a most lamentable condition, having her face all scorched with fire, and that she was sitting alone in her house, in her smock, without any fire. And thereupon

this deponent went into the house of the said Amy Duny, to see her, and found her in the same condition as was related to her; for her face, her legs, and thighs, which this deponent saw, seemed very much scorched and burnt with fire, at which this deponent seemed much to wonder, and asked the said Amy how she came into that sad condition? and the said Amy replied, she might thank her for it, for that she this deponent was the cause thereof, but that she should live to see some of her children dead, and herself upon crutches. And this deponent farther saith, that after the burning of the said toad, her child recovered and was well again, and was living at the time of the assizes. And this deponent farther saith, That about the 6th day of March, 11 Car. II. her daughter Elizabeth Durent, being about the age of ten years, was taken in like manner as her first child was, and in her fits complained much of Amy Duny, and said, That she did appear to her, and afflict her in such manner as the former. And she this deponent going to the apothecaries for something for her said child, when she did return to her own house, she found the said Amy Duny there, and asked her what she did do there? and her answer was, that she came to see her child, and to give it some water. But she this deponent, was very angry with her, and thrust her forth of her doors; and when she was out of doors, she said, You need not be so angry, for your child will not live long: and this was on a Saturday, and the child died on the Monday following; the cause of whose death this deponent verily believeth was occasioned by the witchcraft of the said Amy Duny: for that the said Amy hath been long reputed to be a witch, and a person of very evil behaviour, whose kindred and relations have been many of them accused for witchcraft, and some of them have been condemned.

The said deponent further saith, that not long after the death of her daughter, Elizabeth Durent, she this deponent was taken with a lameness in both her legs, from the knees downward, that she was fain to go upon crutches, and that she had no other use of them but only to bear a little upon them till she did remove her crutches, and so continued till the time of the assizes, when the witch came to be tried, and was there upon her crutches:—the court asked her, if at the time she was taken with this lameness, it were with her according to the custom of women? Her answer was, that it was so, and that she never had any stoppages of those things, but when she was with child.

This is the substance of her evidence to this indictment.

There was one thing very remarkable, that after she had gone upon crutches for upwards of three years, and went upon them at the time of the assizes in the court when she gave her evidence, and upon the jury's bringing in their verdict, by which the said Amy Duny was found guilty, to the great admiration of all persons, the said Dorothy Durent was restored to the use of her limbs, and went home without making use of her crutches.

II. As concerning Elizabeth and Deborah Pacy, the first of the age of eleven years, the other of the age of nine years or thereabouts: as to the elder, she was brought into the court at the time of the instructions given to draw up the indictments, and afterwards at the time of trial of the said prisoners, but could not speak one word all the time, and for the most part she remained as one wholly senseless, as one in a deep sleep, and could move no part of her body, and all the motion of life that appeared in her was, that as she lay upon cushions in the court upon her back, her stomach and belly, by the drawing of her breath, would arise to a great height: and after the said Elizabeth had lain a long time on the table in the court, she came a little to herself and sat up, but could neither see nor speak, but was sensible of what was said to her, and after a while she laid her head on the bar of the court with a cushion under it, and her hand and apron upon that, and there she lay a good space of time: and by the direction of the judge, Amy Duny was privately brought to Elizabeth Pacy, and she touched her hand; whereupon the child, without so much as seeing her, for her eyes were closed all the while, suddenly leaped up, and caught Amy Duny by the hand, and afterwards by the face; and with her nails scratched her till blood came, and would by no means leave her till she was taken from her, and afterwards the child would still be pressing towards her, and making signs of anger conceived against her.

Deborah the younger daughter was held in such extreme danger, that her parents wholly despaired of her life, and therefore could not bring her to the assizes.

The evidence which was given concerning these two children was to this effect.

Samuel Pacy a merchant of Leystoff, aforesaid, (a man who carried himself with much soberness during the trial, from whom proceeded no words either of passion or malice, though his children were so greatly afflicted,) sworn and examined, deposeth:

That his younger daughter Deborah, upon Thursday the 10th of October last, was suddenly taken with a lameness in her legs, so that she could not stand, neither had she any strength in her limbs to support her, and so she continued until the 17th day of the same month, which day being fair and sunshiny, the child desired to be

carried on the East part of the house, to be set upon the bank which looketh upon the sea; and whilst she was sitting there, Amy Duny came to this deponent's house to buy some herrings, but being denied, she went away discontented, but presently returned again, and was denied, and likewise the third time, and was denied as at first; and at her last going away, she went away grumbling; but what she said was not perfectly understood. But at the very same instant of time, the said child was taken with most violent fits, feeling most extreme pain in her stomach, like the pricking of pins, and screaming out in a most dreadful manner like unto a whelp, and not like unto a sensible creature. And in this extremity the child continued to the great grief of the parents until the 30th of the same month. During this time, this deponent sent for one Dr. Feavor, a doctor of physic, to take his advice concerning his child's distemper; the doctor being come, he saw the child in those fits, but could not conjecture (as he then told this deponent, and afterwards affirmed in open court, at this trial) what might be the cause of the child's affliction. And this deponent farther saith, that by reason of the circumstances aforesaid, and in regard Amy Duny is a woman of an ill fame, and commonly reported to be a witch and sorceress, and for the said child in her fits would cry out on Amy Duny, as the cause of her malady, and that she did affright her with apparitions of her person (as the child in the intervals of her fits related) he, this deponent, did suspect the said Amy Duny to be a witch, and charged her with the injury and wrong to his child, and caused her to be set in the stocks on the 28th of the same October: and during the time of her continuance there, one Alice Letteridge and Jane Buxton, demanding of her (as they also affirmed in court upon their oaths) what should be the reason of Mr. Pacy's child's distemper? telling her, that she was suspected to be the cause thereof; she replied, "Mr. Pacy keeps a great stir about his child, but let him stay until he hath done as much by his children, as I have done by mine." And being further examined, what she had done to her children? she answered, "that she had been fain to open her child's mouth with a tap to give it victuals."

And the said deponent further deposeth, that within two days after speaking of the said words, being the thirtieth of October, the eldest daughter, Elizabeth, fell into extreme fits, insomuch, that they could not open her mouth to give her breath, to preserve her life without the help of a tap, which they were enforced to use; and the younger child was in the like manner afflicted, so that they used the same also for her relief.

And further, the said children being grievously afflicted would severally complain in their extremity, and also in the intervals, that Amy Duny (together with one other woman whose person and clothes they described) did thus afflict them, their apparitions appearing before them, to their great terror and astonishment: and sometimes they would cry out, there stands Amy Duny, and there Rose Cullender; the other person troubling them. Their fits were various: sometimes they were lame on one side of their bodies, sometimes on the other: sometimes a soreness over their whole bodies, so that they could endure none to touch them: at other times they

would be restored to the perfect use of their limbs, and deprived of their hearing; at other times of their sight, at other times of their speech; sometimes by the space of one day, sometimes for two; and once they were wholly deprived of their speech for eight days together, and then restored to their speech again. At other times they would fall into swoonings, and upon the recovery to their speech they would cough extremely, and bring up much phlegm, and with the same crooked pins, and one time a two-penny nail, with a very broad head, which pins (amounting to forty or more) together with the two-penny nail, were produced in court, with the affirmation of the said deponent, that he was present when the said nail was vomited up, and also most of the pins. Commonly at the end of every fit they would cast up a pin, and sometimes they would have four or five fits one day.

In this manner the said children continued with this deponent for the space of two months, during which time in their intervals this deponent would cause them to read some chapters in the New Testament. Whereupon this deponent several times observed, that they would read till they came to the name of Lord, or Jesus, or Christ; and then before they could pronounce either of the said words they would suddenly fall into their fits. But when they came to the name of Satan, or the devil, they would clap their fingers upon the book, crying out, "this bites, but makes me speak right well."

At such time as they were recovered out of their fits (occasioned as this deponent conceives, upon their naming of Lord, or Jesus, or Christ) this deponent hath demanded of them, what is the cause they cannot pronounce those words, they reply and say, "that Amy Duny saith, I must not use that name."

And farther, the said children, after their fits were past, would tell, how that Amy Duny, and Rose Cullender, would appear before them, holding their fists at them, threatening, "that if they related either what they saw or heard, that they would torment them ten times more than ever they did before."

In their fits they would cry out, there stands Amy Duny, or Rose Cullender; and sometimes in one place and sometimes in another, running with great violence to the place where they fancied them to stand, striking at them as if they were present; they would appear to them sometimes spinning, and sometimes reeling, or in other postures, deriding or threatening them.

And this deponent farther saith, that his children being thus tormented by all the space aforesaid, and finding no hopes of amendment, he sent them to his sister's house, one Margaret Arnold, who lived at Yarmouth, to make trial, whether the change of the air might do them any good. And how, and in what manner they were afterwards held, he, this deponent, refers himself to the testimony of his said sister.

¶ Margaret Arnold, sworn and examined, saith, that the said Elizabeth and Deborah Pacy came to her house, about the thirtieth of November last, her brother acquainted her, that he thought they were bewitched, for that they vomited pins; and farther informed her of the several passages which occurred at his own house. This deponent said, that she gave no credit to that which was related to

her, conceiving possibly the children might use some deceit in putting pins in their mouths themselves. Wherefore this deponent unpinned their clothes, and left not so much as one pin upon them, but sewed all the clothes they wore, instead of pinning of them. But this deponent saith, that notwithstanding all this care and circumspection of hers, the children afterwards raised, at several times, at least thirty pins in her presence, and had most fierce and violent fits upon them.

The children would in their fits cry out against Rose Cullender and Amy Duny, affirming that they saw them; and they threatened to torment them ten times more, if they complained of them. At some times the children (only) would see things run up and down the house in the appearance of mice; and one of them suddenly snapt one with the tongs, and threw it into the fire, and it screamed out like a rat.

At another time, the younger child being free from her fits went out of doors to take a little fresh air, and presently a little thing like a bee flew upon her face, and would have gone into her mouth; whereupon the child ran in all haste to the door to get into the house again, screeching out in a most terrible manner; whereupon, this deponent made haste to come to her, but before she could get to her, the child fell into her swooning fit, and at last with much pain, straining herself, she vomited up a two-penny nail with a broad head: and after that the child had raised up the nail she came to her understanding; and being demanded by this deponent, how she came by this nail? She answered, "that the bee brought this nail and forced it into her mouth."

And at other times, the elder child declared unto this deponent, that during the time of her fits, she saw flies come unto her, and bring with them in their mouths crooked pins; and after the child had thus declared the same, she fell again into violent fits, and afterwards raised several pins.

At another time, this deponent declares that the said elder child, sitting by the fire, suddenly started up and said, "she saw a mouse," and she crept under the table looking after it, and at length she put something in her apron, saying, "she had caught it;" and immediately she ran to the fire and threw it in, and there did appear to this deponent something like the flashing of gunpowder, though she confessed she saw nothing in the child's hand.

At another time the said child being speechless, but otherwise of perfect understanding, ran about the house holding her apron, crying, "hush, hush," as if there had been some poultry in the house; but this deponent could perceive nothing; but at last she saw the child stoop, as if she had caught at something, and put it into her apron, and afterwards made as if she had thrown it into the fire; but this deponent could not discover any thing: but the child afterwards being restored to her speech, she, this deponent, demanded of her, what she saw at the time she used such a posture? who answered, "that she saw a duck."

At another time the younger daughter being recovered out of her fits, declared, "that Amy Duny had been with her, and that she

tempted her to drown herself, and to cut her throat, or otherwise to destroy herself."

At another time, in their fits, they both of them cried out upon Rose Cullender and Amy Duny, complaining against them; "why do not you come yourselves, but send your imps to torment us?"

These several passages, as most remarkable, the said deponent did particularly set down as they daily happened, and for the reasons aforesaid, she doth verily believe in her conscience that the children were bewitched, and by the said Amy Duny and Rose Cullender; though at first she could hardly be induced to believe it.

As concerning Anne Durent, one other of the parties, supposed to be bewitched, present in court.

Edmund Durent, her father, sworn and examined, said, that he also lived in the said town of Leystoff, and that the said Rose Cullender, about the latter end of November last, came into this deponent's house to buy some herrings of his wife, but being denied by her, the said Rose returned in a disconcerted manner; and upon the first of December after, his daughter, Anne Durent, was very sorely afflicted in her stomach, and felt great pain, like the pricking of pins, and then fell into swooning fits, and after the recovery from her fits she declared, "that she had seen the apparition of the said Rose, who threatened to torment her." In this manner she continued from the first of December, until this present time of trial; having likewise vomited up divers pins (produced here in court.) This maid was present in court, but could not speak to declare her knowledge, but fell into violent fits when brought before Rose Cullender.

Anne Baldwin, sworn and examined, deposeth the same thing as touching the bewitching of the said Anne Durent.

As concerning Jane Bocking, who was so weak she could not be brought to the assizes—

Diana Bocking, sworn and examined, deposed, that she lived in the same town of Leystoff, and that her said daughter having been formerly afflicted with swooning fits, recovered well of them, and so continued for a certain time; and upon the first of February last, she was taken also with great pain in her stomach, like pricking with pins, and afterwards fell into swooning fits, and so continued till the deponent's coming to the assizes, having during the same time taken no food, but daily vomited crooked pins, and upon Sunday last raised seven pins. And whilst her fits were upon her, she would spread forth her arms with her hands open, and use postures, as if she caught at something, and would instantly close her hands again, which being immediately forced open, they found several pins diversly crooked, but could neither see nor perceive how, or in what manner they were conveyed thither. At another time the same Jane being in another of her fits, talked as if she were discoursing with some persons in the room, though she would give no answer, nor seem to take notice of any person then present, and would in like manner cast abroad her arms, saying, "I will not have it, I will not have it," and at last she said, "then I will have it," and so waving her arm with her hand open, she would presently close the same,

which being instantly forced open, they found in it a lath-nail. In her fits she would frequently complain of Rose Cullender and Amy Duny, saying, that now she saw Rose Cullender standing at the bed's feet, and another time at the bed's head, and so in other places. At last she was stricken dumb, and could not speak one word, though her fits were not upon her, and so she continued for some days, and at last her speech came to her again, and she desired her mother to get her some meat, and being demanded the reason why she could not speak in so long a time? she answered, that Amy Duny would not suffer her to speak. This lath-nail, and divers of the pins were produced in court.

As concerning Susan Chandler, one other of the parties supposed to be bewitched, and present in court.

Mary Chandler, mother of the said Susan, sworn and examined, deposed and said, that about the beginning of February last past, the said Rose Cullender and Amy Duny were charged by Mr. Samuel Pacy, for bewitching of his daughters. And a warrant being granted at the request of the said Mr. Pacy, by Sir Ed. Bacon, Bt. one of the justices of the peace for the county of Suffolk, to bring them before him, and they being brought before him, were examined, and confessed nothing. He gave order that they should be searched; whereupon this deponent with five others were appointed to do the same; and coming to the house of Rose Cullender, they did acquaint her with what they were come about, and asked whether she was contented that they should search her? she did not oppose it, whereupon they began at her head, and so stripped her naked, and in the lower part of her belly they found a thing like a teat, of an inch long; they questioned her about it, and she said, that she had got a strain by carrying of water, which caused that excrescence. But upon narrower search, they found in her privy parts three more excrescencies or teats, but smaller than the former. This deponent farther saith, that in the long teat, at the end thereof, there was a little hole, and it appeared unto them as if it had been lately sucked, and upon the straining of it, there issued out white milky matter.

And this deponent farther saith, that her said daughter being of the age of eighteen years, was then in service in the said town of Levstoft, and rising up early the next morning to wash, this Rose Cullender appeared to her, and took her by the hand, whereat she was much affrightened, and went forthwith to her mother, being in the same town, and acquainted her with what she had seen; but being extremely terrified, she fell extremely sick, much grieved at her stomach, and that night after being in bed with another young woman, she suddenly shrieked out, and fell into such, extreme fits, as if she were distracted, crying against Rose Cullender saying, "she would come to bed her." She continued in this manner, beating and tearing herself, insomuch, that this deponent was glad to get help to attend her. In her intervals she would declare, that some time she saw Rose Cullender, at another time, with a great dog with her. She also vomited up divers crooked pins, and sometimes she was stricken with blindness, and at another time she was dumb, and so she appeared to be in court, when the trial of the prisoners was, for she was not able to speak her knowledge; but

being brought into the court at the trial, she suddenly fell into her fits, and being carried out of the court again, within the space of half an hour she came to herself, and recovered her speech, and thereupon was immediately brought into the court, and asked by the court, whether she was in condition to take an oath, and to give evidence she said she could. But when she was sworn, and asked what she could say against either of the prisoners? before she could make any answer, she fell into her fits, shrieking out in a miserable manner, crying, "burn her, burn her," which were all the words she could speak.

Robert Chandler, father of the said Susan, gave in the same evidence, that his wife Mary Chandler had given; only as to the searching Rose Cullender, as aforesaid.

This was the sum and substance of the evidence which was given against the prisoners, concerning the bewitching of the children before mentioned. At the hearing this evidence there were divers known persons, as Mr. Serjeant Keeling, Mr. Serjeant Earl, and Mr. Serjeant Barnard, present. Mr. Serjeant Keeling seemed much dissatisfied with it, and thought it not sufficient to convict the prisoners; for admitting the children were in truth bewitched, yet, said he, it can never be applied to the prisoners, upon the imagination of the parties afflicted; for if that might be allowed, no person whatsoever can be in safety, for perhaps they might fancy another person, who might altogether be innocent in such matters.

There was also Dr. Brown of Norwich, a person of great knowledge; who after this evidence given, and upon view of the three persons in court, was desired to inform the court, what he conceived of them; and he was clearly of opinion, that the persons were bewitched; and said, that in Denmark there had been lately a great discovery of witches, who used the very same way of afflicting persons, by conveying pins into them, and crooked as these pins were, with needles and nails. And his opinion was, that the devil in such cases did work upon the bodies of men and women, upon a natural foundation, that is, to stir up, and excite such humours superabounding in their bodies to a great excess, whereby he did in an extraordinary manner afflict them with such distempers as their bodies were most subject to, as particularly appeared in these children; for he conceived, that these swooning fits were natural, and nothing else than what they call the mother, but only

heightened to a great excess by the subtilty of the devil, co-operating with the malice of these whom we term witches, at whose instance he doth these villanies.

Besides the particulars above-mentioned, touching the said persons bewitched, there were many other things objected against them, for a further proof and manifestation that the said children were bewitched.

And first, during the time of the trial, there were some experiments made with the persons afflicted, by bringing the persons to touch them; and it was observed, that when they were in the midst of their fits, to all men's apprehension wholly deprived of all sense and understanding, closing their fists in such manner, as that the strongest man in the court could not force them open; yet by the least touch of one of these supposed witches, Rose Cullender by name, they would suddenly scream out, opening their hands, which accident would not happen by the touch of any other person.

And lest they might privately see when they were touched by the said Rose Cullender, they were blinded with their aprons, and the touching took the same effect as before.

There was an ingenious person that objected, there might be a great fallacy in this experiment, and there ought not to be any stress put upon this to convict the parties; for the children might counterfeit this their distemper, and perceiving what was done to them, they might in such manner suddenly alter the motion and gesture of their bodies, on purpose to induce persons to believe that they were not natural, but wrought strangely by the touch of the prisoners.

Wherefore to avoid this scruple, it was privately desired by the judge, that the Lord Cornwallis, Sir Edmond Bacon, and Mr. Serjeant Keeling, and some other gentleman there in court, would attend one of the distempered persons in the farther part of the hall, whilst she was in her fits, and then to send for one of the witches, to try what would then happen, which they did accordingly; and Amy Duny was conveyed from the bar, and brought to the maid: they put an apron before her eyes, and then one other person touched her hand, which produced the same effect as the touch of the witch did in the court. Whereupon the gentlemen

returned, openly protesting, that they did believe the whole transaction of this business was a mere imposture.

This put the court, and all persons, into a stand. But at length Mr. Pacy did declare, that possibly the maid might be deceived, by a suspicion that the witch touched her when she did not. For he had observed divers times, that although they could not speak, but were deprived of the use of their tongues and limbs, that their understandings were perfect, for that they have related divers things which have been when they were in their fits, after they were recovered out of them. This saying of Mr. Pacy was found to be true afterwards, when his daughter was fully recovered (as she afterwards was) as shall in due time be related: for she was asked, whether she did hear and understand any thing that was done and acted in the court, during the time that she lay as one deprived of her understanding? and she said, she did; and by the opinions of some, this experiment, (which others would have a fallacy) was rather a confirmation that the parties were really bewitched, than otherwise: for, say they, it is not possible that any should counterfeit such distempers, being accompanied with such various circumstances, much less children; and for so long time, and yet undiscovered by their parents and relations: for no man can suppose that they should all conspire together, (being out of several families, and, as they affirm, no way related one to the other, and scarce of familiar acquaintance) to do an act of this nature, whereby no benefit or advantage could redound to any of the parties, but a guilty conscience for perjuring themselves in taking the lives of two poor simple women away, and there appears no malice in the case. For the prisoners themselves did scarce so much as object it. Wherefore, say they, it is very evident, that the parties were bewitched, and that when they apprehend or understand by any means, that the persons who have done them this wrong are near, or touch them; then their spirits being more than ordinarily moved with rage and anger at them being present, they do use more violent gestures of their bodies, and extend forth their hands, as desirous to lay hold upon them; which at other times not having the same occasion, the instance there falls not out the same.

2dly. One John Soam, of Leystoff aforesaid, yeoman, a sufficient person,

Deposeth, that not long since, in harvest time, he had three carts which brought home his harvest, and as they were going into the field to load, one of the carts wrenched the window of Rose Cullender's house; whereupon she came out in a great rage, and threatened this deponent for doing that wrong, and so they passed along into the fields, and loaded all the three carts, the other two carts returned safe home, and back again, twice loaded that day afterwards; but as to this cart which touched Rose Cullender's house, after it was loaded, it was overturned twice or thrice that day; and after that they had loaded it again the second or third time, as they brought it through the gate which leadeth out of the field into the town, the cart stuck so fast in the gate's-head, that they could not possibly get it through, but were forced to cut down the post of the gate to make the cart pass through, although they could not perceive that the cart did of either side touch the gate-posts. And this deponent further saith, that after they had got it through the gate-way, they did with much difficulty get it home into the yard; but for all that they could do, they could not get the cart near unto the place where they should unload the corn, but were fain to unload it at a great distance from the place, and when they began to unload they found much difficulty therein, it being so hard a labour that they were tired that first came; and when others came to assist them, their noses burst forth a bleeding; so they were fain to desist, and leave it until the next morning, and then they unloaded it without any difficulty at all.

Robert Sherringham also deposeth against Rose Cullender,

That about two years since, passing along the street with his cart and horses, the axle-tree of his cart touched her house, and broke down some part of it, at which she was very much displeased threatening him, that his horses should suffer for it; and so it happened, for all those horses, being four in number, died within a short time after: since that time he hath had great losses by the sudden dying of his other cattle; so soon as his sows pigged, the pigs would leap and caper, and immediately fall down and die. Also, not long after, he was taken with a lameness in his limbs that he could neither go nor stand for some days. After all this, he was very much vexed with great number of lice of an extraordinary bigness, and although he many times shifted himself, yet he was not any thing the better, but would swarm again with them; so that in the conclusion he was forced to burn all his cloathes, being two suits of apparel, and then was clean from them.

As concerning Amy Duny, one Richard Spencer

Deposeth, that about the 1st of September last, he heard her say at his house, that the devil would not let her rest until she were revenged on one Cornelius Sanderwell's wife.

Anne Sanderwell, wife unto the abovesaid Cornelius,

Deposed, that about seven or eight years since, she having bought a certain number of geese, meeting with Amy Duny, she told her,

if she did not fetch her geese home they would all be destroyed : which in a few days came to pass.

* Afterwards the said Amy became tenant to this deponent's husband for a house, who told her, that if she looked not well to such a chimney in her house, that the same would fall : whereupon this deponent replied, that it was a new one ; but not minding much her words, at that time they parted. But in a short time the chimney fell down according as the said Amy had said.

Also this deponent farther saith, that her brother being a fisherman, and having to go into the Northern Seas, she desired him to send her a firkin of fish, which he did accordingly ; and she having notice that the said firkin was brought into Leystoff-road, she desired a boatman to bring it ashore with the other goods they were to bring ; and she going down to meet the boatman to receive her fish, desired the said Amy to go along with her to help her home with it ; Amy replied, she would go when she had it. And thereupon this deponent went to the shore without her, and demanded of the boatman the firkin, they told her, that they could not keep it in the boat from falling into the sea, and they thought it was gone to the devil, for they never saw the like before. And being demanded by this deponent, whether any other goods in the boat were likewise lost as well as hers ? They answered, not any.

This was the substance of the whole evidence given against the prisoners at the bar ; who being demanded what they had to say for themselves, they replied, nothing material to any thing that was proved against them. Whereupon the judge, in giving his direction to the jury, told them that he would not repeat the evidence unto them, lest by so doing he should wrong the evidence on the one side or on the other. Only this he acquainted them with, that they had two things to inquire after. First, Whether or no these children were bewitched. Secondly, Whether the prisoners at the bar were guilty of it.

That there were such creatures as witches, he made no doubt at all ; for, 1st, The Scriptures had affirmed so much. 2dly, The wisdom of all nations had provided laws against such persons, which is an argument of their confidence of such a crime. And such hath been the judgment of this kingdom, as appears by that act of parliament which hath provided punishments proportionable to the quality of the offence ; and desired them strictly to observe their evidence ; and desired the great God of heaven to direct their hearts in this weighty thing they had in hand ; for to condemn the innocent, and to let the guilty go free, were both an abomination to the Lord.

With this short direction the jury departed from the bar, and within the space of half an hour returned, and brought them in guilty upon the several indictments, which were thirteen in number, whereupon they stood indicted.

This was upon Thursday, in the afternoon, March 13, 1662.

The next morning, the three children, with their parents, came to the Lord Chief Baron Hale's lodgings, who all of them spake perfectly, and were in as good health as ever they were; only Susan Chandler, by reason of her great affliction, looked very thin and wan. And their friends were asked at what time they were restored thus to their speech and health, and Mr. Pacy did affirm, that within less than half an hour after the witches were convicted, they were all of them restored, and slept well that night, feeling no pain; only Susan Chandler felt a pain like pricking of pins in her stomach.

Afterwards they were all brought down to the court; but Anne Durent was so afraid to behold them, that she desired she might not see them. The other two continued in the court, and they affirmed in the face of the country, and before the witches themselves, what before had been deposed by their friends and relations, —the prisoners not much contradicting them. In conclusion, the judge and all the court were fully satisfied with the verdict, and thereupon gave judgment against the witches, that they should be hanged.

They were much urged to confess, but would not.

That morning the judges departed for Cambridge, but no reprieve was granted; and they were executed on Monday the 17th of March following, but they confessed nothing to the last.

JOHN TWYN, PRINTER,
 THOMAS BREWSTER, BOOKSELLER,
 SIMON DOVER, PRINTER,
 NATHAN BROOKS, BOOKBINDER.

FEBRUARY 20, AND 22, 1663-4.

[This case illustrates the frightful tyranny of Charles II. and will be read with astonishment by Englishmen of this and every future age.]

FIVE several indictments being drawn up, viz. one of high treason, against John Twyn, printer, and the other four for sedition, viz. two against Thomas Brewster, bookseller, one against Simon Dover, printer, and one against Nathan Brooks, bookbinder, were presented to the Grand Inquest in London, at the Sessions of Jail-delivery of Newgate, holden at Justice-hall in the Old Bailey, the 19th day of February, 1663.

Clerk of the Peace.—Set John Twyn to the bar. Thou standest indicted in London by the name of John Twyn, late of London, stationer, for that thou, as a false traitor against the most illustrious Charles the Second, by the grace of God of England, Scotland, France, and Ireland, King, Defender of the Faith, &c. thy supreme and natural lord and sovereign,—not having the fear of God in thine heart, nor weighing the duty of thy allegiance, but being moved and seduced by the instigation of the devil,—and the cordial love, true duty, and natural obedience which true and faithful subjects towards our sovereign lord the king bear, and of right ought to bear, altogether withdrawing, minding, and with all thy force intending the peace and common tranquillity of this kingdom to disturb, and sedition and rebellion within these his Majesty's dominions to move, stir up, and procure, and discord between our said sovereign and his subjects to make and move, the 27th day of October, in the year of the reign of our said sovereign lord Charles the Second, by the grace of God, &c. the fifteenth, at the parish of St. Bartholomews, in the Ward of Farringdon-without, London, aforesaid, traitorously didst compose, imagine, and intend the death and final destruction of our said sovereign lord the king, and the ancient and regal government of England to change and subvert, and our said sovereign lord the king of his crown and regal government to depose and deprive. And these thy most wicked treasons and traitorous imaginations to fulfil, thou the said John Twyn, the said 27th day of October, in the year aforesaid, in the parish and ward aforesaid, advisedly, devilishly, and maliciously didst declare, by imprint-

ing a certain seditious, poisonous, and scandalous book, entitled, "A Treatise of the Execution of Justice," &c. in which said book, amongst other things, thou the said John Twyn, the 27th day of October, in the year aforesaid, in the parish and ward aforesaid, falsely, maliciously, and traitorously didst imprint, &c. against the duty of thy allegiance, and the statute in that case made and provided, and against the peace of our said sovereign lord the king, his crown and dignity.

What sayest thou, John Twyn? Art thou guilty of this high treason whereof thou standest indicted, or not guilty?

Twyn.—Not guilty of those crimes.

Ld. Ch. Just. Hyde.—God forbid you should.

Clerk.—How wilt thou be tried?

Twyn.—I desire to be tried in the presence of that God that is the searcher of all hearts and the disposer of all things.

Ld. Ch. Just. Hyde.—God Almighty is present here; there is no other trial by the law of England, but by God and the peers, that is the country—honest men. You shall have all your challenges, and all that is due to you, by the help of God; we are bound to be your counsel, to see you have no wrong; therefore, put yourself upon your trial; say how you will be tried.

Twyn.—I desire to be tried in the presence of God.

Ld. Ch. Just. Hyde.—So you shall: God Almighty is present here, looks down, and beholds what we do here; and we shall answer severely, if we do you any wrong. We are as careful of our souls as you can be of yours. You must answer in the words of the law.

Twyn.—By God and the country.

Ld. Ch. Just. Hyde.—Now say what you will.

Twyn.—I am a very poor man.

Ld. Ch. Just. Hyde.—Nay, let me interrupt you thus far: whatever you speak in your defence, to acquit yourself of this crime, that you may reserve till by and bye. This is but an arraignment; afterwards the evidence for the king is to be heard, then make your defence. If you have any witnesses on your part, let us know their names: we will take care they shall come in. If I do not mistake, you desired to have counsel: is that your request?

Twyn.—Yes.

Ld. Ch. Just. Hyde.—Then I tell you we are bound to be of counsel with you in point of law; that is, the court, my brethren, and myself, are to see that you suffer nothing for your want of knowledge in matter of law; I say, we are to be of counsel with you. But for this horrid crime, (I will hope in charity you are not guilty of it, but if you are) it is the most abominable and barbarous treason that ever I heard of, or any man else. The very title of the book (if there were no more) is as perfectly treason as possibly can be. The whole book through—all that is read in the indictment—not one sentence but is as absolute high treason as ever I yet heard of. A company of mad-brains, under pretence of the worship and service of God, to bring in all villainies and atheism, as is seen in that book! What a horrid thing is this! But you shall have free liberty in defending yourself.—To the matter of fact, whether it be so or no. In this case the law does not allow your counsel to plead

for you ; but in matter of law we are of counsel with you, and it shall be our care to see that you have no wrong done you.

Clerk.—Set Simon Dover to the bar.

Dover.—I am not, by the laws of England, guilty.

Ld. Ch. Just. Hyde.—You shall be tried by the laws of England, whether you are guilty or no.

Dover.—I desire time and counsel assigned me, and a copy of my indictment.

Ld. Ch. Just. Hyde.—For a copy of your indictment, though it be for a foul offence, yet in favour to you, it being not made so capital as the other, we cannot deny it you. For counsel, you may have what you will—we need not assign it. (Make him a copy) but I will tell you, we shall try it now.

Dover.—I do protest I knew not what I came for ; I never imagined what my indictment was ; I know not what there is in it.

Ld. Ch. Just. Hyde.—You shall have a copy made presently. If you have counsel or witnesses, send for them : we must try you to-day, but you will have some time, for we will begin with the other.

Clerk.—Set Thomas Brewster to the bar.

Who being demanded whether he was guilty of that sedition and offence, answered, Not guilty.

Clerk.—How will you be tried ?

Brewster.—By God and the country.

Ld. Ch. Just. Hyde.—Say what you will now.

Brewster.—May it please your lordship, I am wholly ignorant of the proceedings of the law ; I have been a close prisoner these eighteen weeks,—nobody to advise with me—scarce my wife suffered to come to me ; I desire some time to take advice.

Ld. Ch. Just. Hyde.—I doubt we shall not be able, if you mean till next sessions.

How sayest thou, Nathan Brooks ? Art thou guilty of this sedition and offence whereof thou standest indicted, or not guilty ?

Brooks.—Not guilty.

Clerk.—How will you be tried ?

Brooks.—By God and the country.—I am a poor man ; I have not money to get counsel ; I hope I shall not want what belongs to me by law, for want of money.

Ld. Ch. Just. Hyde.—You shall not, by the grace of God.

Dover.—We desire we may have a jury of bookellers and printers, they being the men that only understand our business.

Ld. Ch. Just. Hyde.—There are those already that understand it as well as booksellers or printers ; besides, half the jury are such, and they are able to make the rest understand it.—Now produce Joseph Walker.

Joseph Walker.—My lord, whereas my master is indicted for printing this book—

Ld. Hyde.—Your master ! Who is your master ? Walker.—He at the bar.

Ld. Hyde.—What say you of it ? Walker.—I desire to see the book ; [it was shewn him] about the four first pages of this treatise I composed.

Ld. Hyde.—Who delivered it to you to compose ? Walker.—My master delivered the copy to me.

Ld. Hyde.—What do you mean by composing? Walker.—Setting the letters.

Ld. Hyde.—Well, and you set the letters to print according to the copy, and you had it of your master, had you? Walker.—Yes, my lord, but all this copy we did not print.

[Part of the copy in manuscript being shewn him, he said he composed by that copy.]

Serjt. Morton.—How much did you print? Walker.—About three sheets.

Serjt. Morton.—How many of those did your master compose? Walker.—Truly, Sir, I cannot tell.

Ld. Hyde.—Did he compose one? Walker.—As to a whole one, I cannot say.

Mr. Recorder.—Did he compose the title? Walker.—Here is no title.

Mr. Recorder.—No! read the top. Walker.—A Treatise of the Execution, &c. [He reads the title.]

Mr. Recorder.—Did your master compose that? Walker.—No, I did.

Ld. Hyde.—Did your master give you that to compose? Walker.—Yes.

Serjt. Morton.—Who composed the second, third, and fourth sheet? Walker.—I composed some of them, but to particularize, I cannot.

Ld. Hyde.—Who gave you what you did? Walker.—My master.

Ld. Hyde.—Can you turn to any part of that you did compose? Walker.—I cannot tell that.

Ld. Hyde.—You composed, you say, four pages; there are eight in a sheet; who composed the other of the same sheet? Walker.—I think my master did.

Ld. Hyde.—At the same time and in the same room with you? Walker.—He wrought not in the same room.

Ld. Hyde.—After you had stamped the sheet, who perused and read it, to see if it were right? Walker.—I carried them into the kitchen, and laid them down upon the dresser by my master.

Ld. Hyde.—Who compared them? Walker.—I know not.

Ld. Hyde.—Who brought them back to you? Walker.—My master brought them into the workhouse, and laid them down.

Ld. Hyde.—Was there any body in the house that might correct it? Walker.—Not that I saw.

Ld. Hyde.—When you had carried a sheet down, how long was it ere it was brought back again? Walker.—About an hour or an hour and a half.

Ld. Hyde.—Was there any body in the house besides you and your master? Walker.—There was my fellow apprentice and the woman that keeps the house.

Ld. Hyde.—Were there no strangers there? Walker.—No, my lord.

Mr. Recorder.—Were they printed in your master's house? Walker.—Yes.

Serjt. Morton.—What room? Walker.—In the press-room.

Serjt. Morton.—Did your master work at the press about this

work, any part of the time? Walker.—Yes, I saw him beat some sheets.

Ld. Hyde.—When you had printed one sheet, were there not some mistakes of the letters to be mended? Walker.—Yes, there were literals.

Ld. Hyde.—Who made the amendment? Walker.—Upon my oath, I cannot tell.

Ld. Hyde.—Do you believe it to be your master's? Walker.—I cannot tell that.

Ld. Hyde.—Have you seen your master write heretofore? Walker.—I have seen him write, but because I have heard of them that could counterfeit men's hands, I dare not swear it was his writing.

Ld. Hyde.—Were the amendments that were brought back like his hand?—Walker.—The letters were something like them, but I cannot swear positively that they were his.

Ld. Hyde.—No, that you cannot, unless you saw him write them; but was it like his hand? Walker.—It was not much unlike his hand.

Mr. Recorder.—Did not your master use to correct other works before this? Walker.—Yes.

Mr. Recorder.—Then by the oath that you have taken, were not the corrections of this book like those of other corrections by his own hand? Walker.—I know not that.

Mr. Recorder.—Did any body correct books in your house but your master? Walker.—No Sir.

Serj. Morton.—Did not you see your master with copy? Walker.—Yes, he had copy before him.

Serj. Morton.—What time was this printed? by night or by day? Walker.—In the night time.

Serj. Morton.—What directions did your master give you about printing it, did he direct any privacy? Walker.—He was not much desirous of that.

Mr. Recorder.—At what time did you work about it? Walker.—In the morning, from two till four or five.

Serj. Morton. Pray, Sir, thus: were you in the house when Mr. L'Estrange came up? Walker.—Yes.

Serj. Morton.—Were you at work then or before? Walker.—Not when he was above, but immediately before I was.

Mr. Recorder.—You are not bound to conceal treason, though you are bound to keep your master's secrets.

Serj. Morton.—What were you then at work upon? Walker.—Upon the signature D, the sheet D of this treatise.

Serj. Morton.—What did your master say, when you told him Mr. L'Estrange was below? Walker. Very few words: I cannot be positive in them.

Serj. Morton.—To what purpose were they? Walker.—Hearing somebody knock at the boor, I went down into the composing-room and looked through the window, and saw people; I imagined Mr. L'Estrange was there, and I told my master, whereupon he said, "he was undone," or to that effect.

Mr. Recorder.—Did he not wish you to make haste in composing it? Walker.—No, he did not.

Mr. Recorder.—How long had you been at work upon it? how many days? Walker.—I cannot tell justly.

Mr. Recorder.—You can guess. Walker.—About three or four days.

Mr. Recorder.—Did not your master work in that time? Walker.—He was in the work house, and did set letters.

Mr. Recorder.—Did he not likewise print? Walker.—Yes, he did.

Serj. Morton.—Did not you, by his direction, break the form when Mr. L'Estrange came to search? Walker.—I broke one indeed.

Serj. Morton.—What became of the other? Walker.—My fellow-apprentice broke it.

Serj. Morton.—By whose direction? Walker.—I had no order for it, I brought it down, and went to set it against a post, and it fell in pieces.

Serj. Morton.—Did you ask your master who delivered him this copy to print? Walker.—I did ask him two several times, but he made no answer.

Ld. Hyde.—Did he not say "he would not tell you, or that it was no matter to you," nor nothing? Walker.—Yes, he did afterwards say, "it was no matter to me."

Mr. Recorder.—Did not your master or fellow-apprentice tell you who brought the copy? Walker.—No.

Mr. Recorder.—And did not you know? Walker.—No.

Serj. Marton.—Was he not used to tell you the authors of books that he printed? Walker.—The authors he did not; but for whom they were printed he used to tell me. My Lord, I humbly beg pardon for what I did, I was his apprentice.

Ld. Hyde.—How many sheets did you print? Walker.—Two reams on a sheet, which makes a thousand.

Ld. Hyde.—The first page, being the title of it, your master brought to you to compose; at the same time when you were composing one part, your master was composing another part of the same sheet in the next room; and part of it your master did print as well as compose. I think you said this? Walker.—Yes.

Ld. Hyde.—Likewise that the proofs were carried to him to overlook, and he brought them back within an hour, or an hour and a half after, and laid them down in the workhouse, and that you saw the hand of the amendments, but you cannot swear it was his, only you say that it was not unlike it; and that he had corrected former sheets that you had printed, and that the hand with which he corrected others, and this were alike, and that there was no stranger in the house to correct it? Walker.—Not that I saw.

Ld. Hyde.—This is the substance of what you said? Walker.—Yes.

Mr. Recorder.—Did your other man, or you ever correct? Walker.—No.

Mr. Recorder.—Did he use other correctors at any time? Walker.—Yes, about some books.

Mr. Recorder.—What books? Walker.—"Hooker's Ecclesiastical Policy."

Ld. Hyde.—You did rise to work at two of the clock in the

morning about it, and your master said when you told him Mr. L'Estrange was below, that he was undone?—Walker. It was so, my Lord.

Mr. North.—Mr. L'Estrange, pray tell my Lord and the jury of your taking this. Mr. L'Estrange. My Lord, I do remember that three or four days, or thereabouts, before the 12th of October last, I had notice of a press that had been at work for several nights in Cloth-Fair, and employed a person to watch the house, who told me that they still gave over early in the morning, at day-light, or soon after. At length intelligence was brought me in these words, "that now they were at it as hard as they could drive," which was about four in the morning. I arose, went to one of the king's messengers, and desired him to take a printer by the way; he did so: and I called up a constable, and so went to Twyn's house, where we heard them at work. I knocked a matter of a quarter of an hour, and they would not open the door; so that I was fain to send for a smith to force it, but they perceiving that, opened the door, and let us in. There was a light when we came, but before the door was opened, it was put out. When I was got up stairs, and a candle lighted, I found a form broken, that is, the letters dispersed, only one corner of it standing entire, which was compared by a printer that was there, with a corner of a page newly printed, and appeared to be the same. This form was brought down out of the press-room into the composing-room. As yet we could not find the whole impression, but at last they were found thrown down a pair of back-stairs. I remember they told me the impression was a thousand. I asked him where he had the copy? He told me, "he knew not, it was brought to him by an unknown hand." I told him he must give an account of it. He told me at last, "he had it from Calvert's maid." I asked him where the copy was? he told me, "he could not tell." When I speak of the copy, I mean the manuscript. We searched near two hours and could not find it; and at length went thence to the constable's house in Smithfield, and staid there awhile with the prisoner. "Mr. Twyn," said I, "who corrected this sheet?" alas! said he, "I have no skill in such things." "Who revised it then? who fitted it for the press?" "truly I have no body but myself, I read it over." "What thought you upon reading it?" "Methought it was mettlesome stuff: the man was a hot fiery man that wrote it, but he knew no hurt in it."

Serj. Morton.—When you had taken these sheets, were they wet, or not? Mr. L'Estrange.—They were not only wet, but half of them were imperfect, printed only on one side. Missing the copy, I told him after he was carried to Whitehall; Mr. Twyn, (said I) it may possibly do you some good yet, to bring forth the copy: If you will be so ingenious to produce the copy, and discover the author, you may find mercy for yourself; pray, therefore, get this copy: perchance I may make some use of it. After that, his servant Bazilla Winsor brought out this part of the copy: [producing a sheet of manuscript in court.]

Ld. Hyde.—Joseph Walker, was the whole copy of this book in the house at that time, when you composed that which you did? Walker.—I cannot tell: I saw it but sheet by sheet.

Mr. Recorder.—Did not you see the whole entire copy in your

master's hand? Walker.—No: but [taking some part of the manuscript in his hand, said] this is the hand I composed by.

Mr. Recorder. Mr. L'Estrange, where had you the entire copy? Mr. L'Estrange.—It was only the copy of the last sheet, that I took in the press.

Mr. Recorder. Who helped you to that? Mr. L'Estrange.—Bazilla Winsor, by direction of the prisoner, as I conceive: for I told him, if you can help me to the copy, it may do you some good; and soon after part of it was brought me by her. I asked Mr. Twyn further, how did you dispose of those sheets which you had printed, those several heaps, whither are they gone? He told me, he had delivered those sheets to Mrs. Calvert's maid, at the Rose in Smithfield.

Mr. Recorder. You say he told you Mrs. Calvert's maid received them of him; did you since speak with that maid? Mr. L'Estrange.—I was long in searching Twyn's house, and one of his apprentices made his escape, and probably gave notice of it: for the night I went to Mrs. Calvert's house, she and the maid too were fled. I have since taken the mistress, and she is now in custody. I have heard nothing of the maid since.

Just. Keeling. Twyn owned to you that he had corrected some of the sheets; that he had read them, and said, it was "mettlesome stuff." Mr. L'Estrange.—I did ask him in the house of the constable, who corrected this? The corrector must certainly know what it was. Said he, "I have no skill in 'correcting,' "But when I speak of 'correcting,' I mean who 'revised' it, 'overlooked' it for the press?" "I read it over," says he. Twyn.—I never said such a word. Mr. L'Estrange. He spake this in the presence of two or three here present. "Could you read over this book," said I, "and not know that it was not fit to be printed?" "I thought it was mettle, or 'mettlesome stuff,'" said he, or somewhat to that effect.

Serj. Morton. What did you hear him confess before Sir Henry Bennet? Mr. L'Estrange.—He owned the thing; that is, he acknowledged he had printed the sheet I showed there, and two other sheets of the same treatise.

Serj. Morton. Did he acknowledge he corrected them? Mr. L'Estrange.—I know not whether before Sir Henry Bennet he did, or no.

Serj. Morton. What know you about money received by him? Mr. L'Estrange.—He said Calvert's maid paid him forty shillings in part for that work.

Twyn. I said I had received money of Calvert's maid for work I had done, but named not that.

Serj. Morton. Gentlemen. We have now done: we desire the prisoner may give his answer to it; and then we shall make our reply.

Ld. Hyde. What say you? you have heard the witnesses, and what is laid to your charge.

Twyn. I did never read a line of it in my life.

Ld. Hyde. That is impossible. I will tell you: first, your own man, who set part, swears you did both set and print part of the

book yourself: you gave him the title to set. You composed one part of the book, whilst he was composing another part. Is it possible you could compose, and not read a line of it? He tells you further, when the first sheet was printed, he brought it into the kitchen, and laid it down, knew not of any one in the house but yourself; about an hour, or an hour and half after, you brought it back again corrected, laid it down; and the hand that corrected it, was not unlike your hand upon other corrections of books. Pray, brother Morton, let the jury have books, and Mr. Lee read the indictment, that they may see they agree.

Serj. Morton. I observed to you there were thirteen treasonable paragraphs; you shall find them marked out in the margin.

Ld. Hyde. You shall see there are treasons with a witness: see the very title.

Mr. Lee. [Reads the title of the indictment.] "A treatise of the execution of justice: wherein is clearly proved, that the execution of judgment and justice is as well the people's as the magistrates duty; and if the magistrates pervert judgment, the people are bound by the law of God to execute judgment without them, and upon them."

Ld. Hyde. That you gave to your man to set.

Mr. Lee reads, "It is one of the scarlet sins of this nation, that the people suffered their rulers, &c."—The particular passages are too impious to be published, and indeed too foul to be repeated, but in substance. Those mentioned in the indictment are as follows:

1st. The supreme magistrate is made accountable to the people.

2dly. The people are rebelliously incited to take the management of government into their own hands.

3dly. They are animated to take up arms, not only against the person of his sacred majesty, but likewise against the royal family.

4thly. They are stirred up to revolt, in that very term, as an action honourable and conscientious, making publication in the next clause of encouragement to any town, city, or country in the three nations, to begin the work.

5thly. The people are laboured not only to cast off their allegiance to the King, but in direct terms to put his sacred majesty to death. And to the purposes before mentioned tends the whole scope of the treatise.

Serj. Morton. You may judge of the rest by this: We will not put you to any more expense of time; there hath been sufficient treason in that which you have read.

Ld. Hyde.—Now say what you will. But I must tell you, in those particulars that have been compared, there is as much villainy and slander, as is possible for the devil or man to invent. It is to destroy the king in his person, to rob him of the love and affections of his people; to destroy the whole family, and all the government, ecclesiastical and civil. And this read by yourself, owned, and caused to be printed.

Twyn.—Except it was that sheet which Mr. L'Estrange read to me when I was taken, I never heard it before, nor read it.

Ld. Hyde.—Your man swears that you did set, and print part of it. It is impossible to compose and set. but you must read it. Nay, you did examine and correct the sheets; brought them up again. Mr. L'Estrange swears you confessed you read it over; "it was mettlesome stuff." Mr. Dickenson says, you did not say you read it over; but he saying to you it was impossible you should set it, and not read it, you told him also "it was mettlesome stuff." You could not judge it to be "mettlesome stuff," but you must read it. Besides this, when Mr. L'Estrange came first, you were up, nay, at two o'clock in the morning; when they came and knocked at the door, they heard presses going, you would make no answer till they called a smith, with intent to force it open. When they came in, they found a form brought out of the printing-room, and broken, all but one corner, that taken up by a printer, and compared with the lines of the printed sheets, and found to agree. Some of them were printed on one side only, the rest perfected; you threw them down stairs, part into your neighbour's house; said you were undone, when you understood Mr. L'Estrange was there. What needed all this, but that you knew what you were doing, and did it purposely to do mischief?

Twyn.—I did never read or hear a line of it, but when Mr. L'Estrange read it when I was taken.

Judge Keeling.—Was it printed at your house or no?

Twyn.—I know not but that it might; not that I did it with my own hand.

Judge Keeling.—The papers were found wet with you. Who was in your house?

Twyn.—My two servants.

Judge Keeling.—Did any one set them at work but yourself? did they work of their own heads?

Twyn.—I did use to set them at work, but I did not set them on that particular work.

Ld. Hyde. Have you any thing else to say? God forbid but you should be heard; but the jury will not easily believe such denials against so much evidence.

Judge Keeling.—Tell us to whom you carried this copy to be corrected?

Twyn.—I know not who corrected it.

Ld. Hyde.—If you have any thing to say, speak it: God forbid but you should have a full hearing: say what you will.

Twyn.—I say I did not read it, nor heard it, till Mr L'Estrange read it.

Ld. Hyde.—Have you any thing else?

Twyn.—It's possible I may upon consideration.

Ld. Hyde.—We cannot spend all the day: I must let the jury know they are not to take your testimony.

Serj. Morton.—I am of counsel for the King: I shall reply, if he will say no more.

Judge Keeling.—You have heard your charge; this is your time to make your answer. If you do not speak now, you must not speak at all; therefore if you have any thing to speak in your justification, or witnesses to call, now is your time.

Ld. Hyde.—Let me give you this caution: we cannot spend time in vain, we have other business before us, and it grows late. The best counsel I can give you is this: you said at first, that you desired to be tried in the presence of God. You are here in the presence of Almighty God, and I would to God you would have so much care of yourself, and do so much right to yourself to declare the truth, that there may be means of mercy to you. The best you can now do towards amends for this wickedness you have done, is by discovering the author of this villainous book; if not, you must not expect, and indeed God forbid that there should be any mercy towards you.

Twyn.—I never knew the author of it, nor who it was, nor whence it came, but as I told you.

Ld. Hyde.—Then we must not trouble ourselves. Did you never see the hand before, with which this copy was written?

Twyn.—No.

Ld. Hyde.—I am very confident you would not then have been so mad, as to have taken such a copy; a copy fraught with such abominable treasons and lies; abusing in the first place, the late King that is dead, who was, I

will be bound to say it, as virtuous, religious, pious, merciful, and just a prince as ever reigned, and was as villainously and barbarously used by his rebellious subjects. Nay, you have not rested here, but have fallen upon this King, who has been gentle and merciful beyond all precedent. Since he came to the crown, he has spared those that had forfeited their lives, and all they had; and he has endeavoured to oblige all the rest of his people by mildness and clemency. And after all this, for you to publish so horrid a book, you can never make amends. God forgive you for it.

Twyn.—I never knew what was in it.

Ld. Hyde.—You of the jury, I will say only this: That in point of law, in the first place, there is no doubt in the world, by the law of the land, publishing such a book as this is as high a treason as can be committed; by this he has endeavoured to take away the life of the King, and destroy the whole family, and so consequently to deliver us up into the hands of foreigners and strangers. It is a great blessing that we have the royal line amongst us. But, I say, there is no question (and my brothers will declare the same, if you doubt it) that this book is as fully treason by the old statute, as much as the compassing and endeavouring the death of the King, as possible; and he rests not there, but he incites the people to rebellion, to dethrone him, to raise war; and the publishing of this book is all one and the same as if he had raised an army to do this. The proof is, that he set part, printed part, and corrected it; by his own confession, he read it over, it was “mettlesome suff;” confessed how many sheets he printed, the reward and recompence, you took notice of it. And I presume no man among you can doubt but the witnesses have spoken true; and for his answer, you have nothing but his bare denial, and so we shall leave it to you.

Set Simon Dover to the Bar.

Dover.—My Lord, I pray time till Monday morning; I have sent away the copy of my indictment.

Ld. Hyde.—The sessions will be done to-night, Mr. Recorder and the rest are to go away on Monday, and therefore we must end to-night.

Dover.—My Lord, the indictment is full of law, and I understand not the formalities of it; I desire but till four o'clock.

Ld. Hyde.—We must do it before we go to dinner, or not at all; for there is judgment to be given to the gaol, and all of us Judges are commanded by the King to attend him to-night.

Dover.—I am not able to plead to-night.

Ld. Hyde.—Then because you shall not say you had not all the right imaginable, we will dispatch the rest of the gaol to-night, and adjourn the sessions till Monday morning, and you shall then have a fair trial, by the help of God. You and your company. Nathan Brooks and Thomas Brewster, are you all desirous to be tried on Monday morning.

All Three.—Yes.

Ld. Hyde.—Because you shall not want advice, or any thing else, you shall have all the liberty you will desire, to send for persons; but you must be prisoners till then.

All Three.—We humbly thank you.

Then the jury went out, and after about half an hour's consultation, they returned to the court, and took their places.

Clerk.—Are you all agreed of your verdict?

Jury.—Yes.

Clerk.—Who shall say for you?

Jury.—The foreman.

Clerk.—Set John Twyn to the bar; look upon him, my masters, how say you, is he guilty of the high treason whereof he stands indicted, or not guilty?

Foreman.—Guilty.

Clerk.—John Twyn, thou hast been arraigned for high treason, and thereunto hast pleaded Not Guilty, and for thy trial hast put thyself upon God and the country, and the country hath found thee guilty; what canst thou now say for thyself, why the court should not proceed to judgment, and thereupon award execution of death against thee, according to the law?

Twyn.—I humbly beg mercy; I am a poor man, and have three small children, I never read a word of it.

Ld. Hyde.—I'll tell you what you shall do: ask mercy of them that can give it; that is, of God and the King.

Twyn.—I humbly beseech you to intercede with his Majesty for mercy.

Clerk of Newgate.—Tie him up, executioner.

Crier.—O yes! my Lords the King's Justices command all manner of persons to silence while judgment is giving, upon pain of imprisonment.

Ld. Hyde.—John Twyn, and John Dunsmore, (one convicted for clipping of money) I am heartily sorry that your carriage and grievous offences should draw me to give that judgment upon you that I must. It is the law pronounces it, God knows it is full sore against

my inclination to do it ; I will not trouble myself or you with the repetition of what you have done ; but only this in the general, John Twyn for you ; yours is the most grievous and highest treason, and the most complicated of all wickedness that ever I knew ; for you have, as much as possibly lay in you, so reproached and reviled the King, the dead King and his posterity, on purpose to endeavour to root them out from off the face of the earth. I speak it from my soul, I think we have the greatest happiness in the world, in enjoying what we do under so gracious and good a King ; yet you, in the rancour of your heart, thus abuse him ! I will be so charitable as to think you are misled. There is nothing that pretends to religion that will avow or justify the killing of kings, but the Jesuit on the one side, and the sectary on the other ; indeed it is a desperate and dangerous doctrine, fomented by divers of your temper, and it is high time some be made examples for it. I shall not spend my time in exhorting you, to prepare for death ; I see a grave person whose office it is, and I leave it to him. Do not think of any time here ; make your peace with God, which must be done by confession, and by discovery of those that are guilty of the same crime with you. God have mercy upon you ; and if you so do, he will have mercy upon you. But, forasmuch as you John Twyn have been indicted of high treason, you have put yourself upon God and the country to try you, and the country have found you guilty ; therefore the judgment of the court is, and the court doth award,

“ That you be led back to the place from whence you came, and from thence to be drawn upon an hurdle to the place of execution and there you shall be hanged by the neck, and being alive, shall be cut down, and your privy-members shall be cut off, your entrails shall be taken out of your body, and you living, the same to be burnt before your eyes ; your head to be cut off, your body to be divided into four quarters, and your head and quarters to be disposed of at the pleasure of the King’s Majesty. And the Lord have mercy on your soul.”

Twyn.—I most humbly beseech your Lordship to remember my condition, and intercede for me.

Ld. Hyde.—I would not intercede for my own father in this case, if he were alive.

Monday, February 22.—The court proclaimed.

Clerk.—Set Thomas Brewster to the bar, and the rest set by.

Mr. North.—May it please your Lordship, and you gentlemen of the jury, Thomas Brewster stands here indicted of a foul misdemeanor; in causing to be printed, and in publishing and uttering a seditious, scandalous, and malicious book.

Mr. North.—Thomas Creek, tell my Lord and the jury what you know concerning Brewster, and your printing of a book called “The Speeches, &c.” and his uttering and publishing of it.

Creek.—I shall, Sir. It was a few days before Christmas, that Mr. Brewster, Mr. Calvert, and Mr. Chapman came to me at the Cock in Little Britain; and there they had some copy of the beginning of the speeches of the men that suffered, that were the King’s Judges, and they spoke to me to print it; and I did part of the book, I cannot tell you how much, without I had the book, and then I can tell how much I did print. (The book being shewn him); if this be my printing, I suppose it was done afterwards, another impression, and I must not own it in that. (He was shewed one of another impression.) My Lord, thus far I own; the printers that are of the jury will judge, (pointing to the page) this is my letter, and here I ended.

Ld. Hyde.—What folio is that you ended at?

Creek.—You shall see, it is 36.

Mr. North.—By whose order did you print that?

Creek.—They all gave me orders together.

Ld. Hyde.—They all! name them.

Creek.—Mr. Calvert, Brewster and Chapman.

Mr. North.—Did they charge you to do it privately?

Creek.—With as much privacy and expedition as I could.

Mr. North.—When you had printed them, what did you do with them? Creek.—I disposed of them by their order.

Mr. North.—Did you print but one impression, or more?

Creek.—Yes, my Lord, I did print part of a second impression.

Mr. North.—That we use as evidence that he had uttered the first, because he went upon a second. How many did you print at first?

Creek.—To my best remembrance, the first impression was three thousand.

Ld. Hyde.—These three employed you to print this book, and you printed to the 36th folio? Creek.—Yes.

Ld. Hyde.—And who printed the other part?

Creek.—I cannot say positively.

Ld. Hyde.—These three did afterwards direct you to give out the sheets to such and such persons, bookbinders, to stitch up, and dispose of? Creek.—Yes.

Ld. Hyde.—The first was three thousand, you say, what number did they take?

Creek.—They had all; they sent for them as fast as I did them.

Judge Keeling.—Who did you send the proofs to?

Creek.—They were sent for to my house.

Judge Keeling.—Sometimes by Calvert, sometimes his man, sometimes his maid, sometimes by Brewster.

Ld. Hyde.—Do not you know who began where you left off?

Creek.—I am not able positively to say, I do believe, and I have heard and spoken with them that said Mr. Dover did; but I cannot positively say it.

Ld. Hyde.—You were not by to see it done? Crook.—No.

Ld. Hyde.—What grounds have you to believe that Dover printed the rest?

Creek.—Grounds! truly it is so long ago, to swear positively I cannot.

Ld. Hyde.—It is but three years ago.

Creek.—To the best of my remembrance, Mr. Dover in the time of printing it did meet me, and converse with me about it; but to express time or place I cannot.

Ld. Hyde.—Did you and he agree that he should print the other part?

Creek.—No, my Lord; I had nothing to do to agree to it with him.

Ld. Hyde.—Did he declare to you that he printed the other?

Creek.—To the best of my memory he told me he printed some sheets.

Mr. North.—Who changed sheets with you?

Creek.—Some sheets were changed at Mr. Dover's.

Judge Keeling.—Who paid for the printing?

Creek.—Mr. Brewster paid me some, and some Mr. Calvert paid me.

Ld. Hyde.—If you desire to ask him any questions, you may.

Brewster.—By and bye I shall, my Lord.

Dover.—I desire he may tarry till I come to my trial.

Serj. Morton.—Do not doubt it.

Mr. North.—George Thresher, speak your knowledge to my Lord and the jury, whether Brewster did not bring you the book called "The Speeches, &c." to be stitched, and what you did with them, tell the manner of it.

Thresher.—May it please you my Lord, and the honourable bench, it is thus: This book it seems was printed, Mr. Brewster came to my house to know whether I could fold them, and stitch them in blue paper. That night I went to several printers, Mr. Dover was one of them; we had several sheets from thence, (I did not see them printed) I carried them home, and set about the working them that night.

Judge Keeling.—How many books were delivered to you?

Thresher.—First and last, about five hundred.

Judge Keeling.—Who delivered them to you?

Thresher.—Some were brought to my house.

Judge Keeling.—By whose directions? Thresher.—Mr. Brewster's.

Judge Keeling.—Did you deliver them to any body?

Thresher.—Yes, to Nathan Brooks, ready stitched.

Judge Keeling.—Who paid you for them ?

Thresher.—Mr. Brewster for them he had, and Brooks for them he had.

Ld. Hyde.—Give the jury some books, and read the indictment ; let them be compared.

Clerk reads the indictment : First the title ; “ The speeches and prayers of some of the late King’s judges, viz. Major-general Harrison, October 13th, Mr. John Carey, October 15th, Mr. Justice Cook, Mr. Hugh Peters, October 16th. Mr. Thomas Scot, Mr. Gregory Clement, Col. Adrian Scroope, Col. John Jones, October 17th, Col. Daniel Axtell, and Col. Francis Hacker, October 19, 1660. The times of their death, together with several occasional speeches, and passages in their imprisonment, till they came to the place of execution. Faithfully and impartially collected for further satisfaction.”

Mr. Cook’s letter to a friend, folio 40. “ And so I descend to the cause for which I am in bonds ; which is as good as ever it was. And I believe there is not a saint that hath engaged with us, but will wish at the last day that he had sealed to the truth of it with his blood, if thereupon called ; for I am satisfied, that it is the most noble and glorious cause that has been agitated for God and Christ, since the apostolical times ; being for truth, holiness, and righteousness, for our liberties as men, and as Christians for removing all yokes and oppressions.” And folio 41, “ it is such a cause, that the martyrs would again come from heaven to suffer for it, if they might ; I look upon it as the most high act of justice that our history can parallel,” &c.

Brewster.—I conceive that part that I ordered to be printed, is not included in the indictment.

Ld. Hyde.—Yes every part ; he says in both impressions he printed to the 36th folio, and all the rest was printed by your direction.

Creek.—No, my Lord, I printed to the 36th folio by his direction, the rest was printed elsewhere.

J. Keeling.—Your indictment was this : “ for causing to be printed this book, called the prayers, &c., and for selling and uttering of it.” For the evidence that you caused it to be printed, he swears you directed some, and it is not likely you would print half, and let the other

half alone ; we leave that to the jury, for your uttering that anon.

Ld. Hyde.—There are these two particular charges in the indictment, that you must answer. The first is, your causing it to be printed, and it is not essential or of necessity, that every particular in this indictment be proved to be done by you ; you caused this book to be printed, with such a title, that he swears he did for you : then let the jury, or any man living, judge whether you did direct the book to be wholly perfected, or by halves. The second charge is, that you uttered them ; you delivered five hundred of these to be stitched up, and disposed of them, so that you are in effect, both printer and publisher of the whole book.

Brewster.—He speaks of one part that I ordered ; there is no more proof, and that was but to the 36th page ; he speaks also of somebody else that was present with me, and where they had the rest of the copy printed, he tells you he knows not.

Ld. Hyde.—Have you any more to say ?

Brewster.—Yes, my Lord ; though he says I caused that part to be printed, yet he doth not say I did it maliciously, or with any design against the government.

Ld. Hyde.—The thing speaks for itself.

Brewster.—Booksellers do not use to read what they sell.

Ld. Hyde.—You have forgotten what he swore ; you brought the proof.

Brewster.—He did not swear that : he says Mr. Calvert's man, and sometimes others.

Ld. Hyde.—Ask him again.

Creek.—I did declare, that the proofs were sent for, and carried away and read, sometimes by his servants, not by himself ; they were wrapt up and sent.

Ld. Hyde.—For a man to pretend he did not know, when he being master, sends for the proofs by his servant ; for any man to suppose this is not the master's act, nay, and directing it to be done privately, you shall never find a man guilty : they were sold in his shop.

Brewster.—The grand part of the indictment lies, that it was done maliciously and seditiously, and then it says, knowingly ; though it be granted I did do it, and sell it, yet it does not follow that I did it maliciously and seditiously ; I did it in my trade ; we do not use to read what we put to print or sell. I say, my Lord, selling of

books is our trade, and for the bare exercising of it, knowing nothing of evil in it ; it came out in a time too, when there were no licensers, or appointed rules ; so that whatever was done we are not accountable for, for we read very seldom more than the title, that some of the jury knows ; so that I hope I cannot be said to do it maliciously or knowingly. I can give testimony I am no person given to sedition, but have been ready to appear upon all occasions against it.

Ld. Hyde.—Have you any more ? if you have, say it.

Brewster.—My Lord, they are the sayings of dying men, commonly printed without opposition.

Ld. Hyde.—Never.

Brewster.—I can instance in many, the bookseller only minds the getting of a penny : that declares to the world that as they lived such desperate lives, so they died ; so that it might shew to the world the justice of their punishment ; and so I think it a benefit, far from sedition. It was done so long ago too, it was not done in private, it went commonly up and down the streets, almost as common as a diurnal : it is three years and a quarter ago, or thereabouts.

Justice Tyrrel.—Have you any testimony of your behaviour here.

Brewster.—I do expect some neighbours ; Major-General Brown knows me, Captain Sheldon, Captain Colchester, and others. I can give a very good account as to my behaviour ever since.

Ld. Hyde.—Say what you will, and call your witnesses, and make as much speed as you can.

Clerk.—Hearken to the other indictment ; he stands indicted in "London, &c." and this for causing to be printed a certain book, called "The Phoenix," &c. published the same. To this indictment he hath pleaded not guilty ; so your issue is to enquire whether he be guilty of this offence, or not guilty.

Serj. Morton.—May it please your Lordship, and you gentlemen of the jury, here is another bill of indictment preferred against Thomas Brewster ; it is, that contrary to the duty of his allegiance to his sovereign Lord the King, and purposely to incite the people to sedition, and to withdraw them from their natural allegiance to the king, he hath caused to be imprinted maliciously, falsely and scandalously, a certain scandalous book, entitled,

“The Phoenix,” &c. And this he hath done to disturb the peace of the kingdom, and to withdraw the people from their allegiance; and to the scandal of his majesty’s government, he hath caused this book to be printed, uttered and sold: and this we take to be a great offence against the king, and his crown and dignity. Gentlemen, the dispersing of seditious books is of great danger to the kingdom; false rumours, are the main incentives that stir up the people to sedition and rebellion, that raise discontentments among the people, and then presently they are up in arms. Dispersing seditious books is very near a-kin to raising of tumults; they are as like as brother and sister: raising of tumults is the more masculine; and printing and dispersing seditious books, is the feminine part of every rebellion. But we shall produce our witnesses, we shall prove that this Thomas Brewster caused this book to be printed; that when it was printed, he did receive three hundred; that these he caused to be stitched up; that he uttered and sold them, part in his own shop, and part elsewhere. It being an offence of that great and dangerous consequence, which tends to the disturbance of the peace of the kingdom, I hope you will take it into your serious consideration, and if the matter stand proved against him, you will give him his due demerit.

Mr. North.—Creek, tell my lord and the jury what you know of the printing of the book called “The Phoenix.”

Creek.—My lord, it was in May that Mr. Calvert, Brewster, and Chapman brought that book to me to print.

Ld. Ch. Just. Hyde.—What book? name it.

Creek.—The Phoenix, &c. it was printed for them three. All that I can say is, that Mr. Brewster’s part was delivered to me by his direction.

Ld. Ch. Just. Hyde.—Who paid you for printing of it?

Creek.—Mr. Brewster paid for his part.

Just. Keeling.—How many was his part?

Creek.—His part of two thousand, that was six hundred and odd.

Ld. Ch. Just. Hyde.—These three men joined to bear each man his share?

Creek.—Yes, every man was to have his share.

Just. Keeling.—Did he wish you to do it with privacy?

Creek.—Yes, with expedition and privacy.

Brewster.—Was the copy written or printed?

Creek.—It was all printed formerly, some in quarto, some in octavo, and might have been bought single in any place almost.

Ld. Ch. Just. Hyde.—What do you mean by all printed formerly?

Creek.—My lord, they were in several parcels printed ; there was Mr. Calamy's sermon, and Mr. Douglas's sermon, and the rest.

Just. Keeling.—How long ago was it since they were brought to you to print ?

Creek.—It was in May three years.

Brewster.—Did I order you how you should print them, or Mr. Calvert ? Did not you hear him say, that he had staid two hours for me at an alehouse, to be his partner ?

Creek.—I did hear him say so.

Just. Keeling.—What made you so loth to be their partner ? Were they two hours persuading of you ?

Creek.—No, they waited two hours for him to be their partner.

Serjt. Morton.—Thresher, did Brewster deliver any of those books to you to stitch up ?

Thresher.—Yes, and please you, my lord, and I had them by Mr. Brewster's order, to fold.

Serjt. Morton.—How many ?

Thresher.—To the number of two or three hundred.

Mr. North.—Did he not enjoin you privacy ?

Thresher.—Yes, I think he did.

Just. Keeling.—When they were bound, had you a note to deliver those books safely to any ?

Thresher.—Yes, from his own hand ; he desired me to go and give them to such and such persons, booksellers. Said I, " I shall hardly remember them ; " he thereupon gave me a note of their names to whom I should deliver them ; I judge they were to be trusted more than others.

Serjt. Morton.—Did you deliver them accordingly ?

Thresher.—Yes, I did.

Ld. Ch. Just. Hyde.—How many did you deliver in that manner ?

Thresher.—Two dozen and more.

Just. Keeling.—If you will ask him any questions, do.

Brewster.—Did I give you any order to deliver them to any particular booksellers ?

Thresher.—Yes, you did. I believe Mr. L'Estrange and Mr. Williams (one of the jury) can remember I shewed them the paper you wrote to that purpose.

Mr. Williams.—I did see the note.

Brewster.—I do not remember I gave you any order ; they were all common things before.

Ld. Ch. Just. Hyde.—Observe this, and answer it : It appears that you and two more (Calvert and Chapman) did agree with Creek for printing this book, (several parcels drawn into one volume) and you were to bear each of you a third part, and to have a third part of the books ; he swears you did both pay your part, and had your part of the books ; these books were printed before, and so they were common enough, and therefore you must needs know what was in them. The third full part was brought to you, and delivered by

your appointment; you gave a note how they should be disposed of, and you owned them not in public: your own soul told you they were not to be justified: two dozen were delivered privately to particular persons, by your direction. Lay these things together, and now answer them; for the indictment is, that you caused such a book to be printed and published.

Brewster.—In the first place, the evidence does say, that Mr. Calvert did acknowledge, when he gave him the copy to print, that he staid so long for me, in order to be their partner, he that was the collector of it together. They were all printed before, and printed by licence. For the books, I never read them: we seldom read the books we sell, unless they were before printed, and with licence sold single, as the gentlemen of the jury know: I thought there was no crime to print them altogether. It was done in an interval when there were no licensers: we knew not where to go: what has been printed formerly, we took it for granted might be reprinted, till this late act for printing; and this was done before this act.

Just. Keeling.—Have you any more to say?

Brewster.—No, my lord, I shall leave it to the jury. But, my lord, here are now some neighbours to testify that I am no such person as the indictment sets forth, that I did not maliciously and seditiously do such and things.

Ld. Ch. Just. Hyde.—We will hear them, though I'll tell you it will not much matter: the law says it is malice.

Capt. Sheldon sworn.—My lord, all that I can say is, he was ready at beat of drum upon all occasions; what he has been guilty of by printing or otherwise, I am a stranger to; I know he was of civil behaviour and deportment amongst his neighbours.

Just. Keeling.—It is very ill that the king hath such trained soldiers in the band.

Capt. Hanson and others offered to the like purpose.

Ld. Ch. Just. Hyde.—If you have a thousand to this purpose only, what signifies it?

Just. Keeling.—Are you his captain?

Capt. Sheldon.—No, my lord, Captain Bradshaw.

Ld. Ch. Just. Hyde.—He should be cashiered the

band: not but that he should be charged with arms. I'll tell you, do not mistake yourself; the testimony of your civil behaviour, going to church, appearing in the trained bands, going to Paul's, being there at common service,—this is well; but you are not charged for this; a man may do all this, and yet be a naughty man, in printing abusive books, to the misleading of the king's subjects. If you have any thing to say as to that, I shall be glad to find you innocent.

Brewster.—I have no more to say.

Ld. Hyde.—Then you of the jury, there are some things in this indictment, as in the other, necessary to be stated to you: my brothers and I have consulted here about it. The indictment is for causing a factious and seditious book called “The Phoenix,” &c. with divers other things therein, to be printed. But pray let them see the book, and compare it with the indictment.—You of the jury, you see the indictment agrees with the book. There is a great deal of mercy that this man hath not been indicted of treason; for those very particulars you have heard are as high treason as can be. First, he doth declare, “That the king abusing his power, the people may resist, and take up arms against him:” that is express treason, without any more ado. Then he tells you what a horrid thing it is to break that solemn league and covenant, justifies the raising of arms and rebellion against the late king, unthroning and murdering of him. I tell you, that solemn league and covenant was a most wicked and ungodly thing, against the law of God and the law of the land. To have such villainous stuff to be published, it is a great mercy of the king it had not been drawn higher. You see the man is so far from acknowledging any guilt, that he justifies the fact.

Brewster.—No, my lord, I do not justify myself.

Ld. Ch. Just. Hyde.—Yes, you do. The printer swears he was to go share and share alike: he had his part: he publishes them to some particular friends: I say he justifies this. He tells you in his defence, that it was commonly printed, that it was done by printed copy, and that done formerly by licence; and when things are printed by licence, they do not expect or need any new or second licence: they were commonly sold asunder: here they are only printed together. That, he says, is

nothing. What is this but justifying the printing of it? Observe, weigh, and see what kind of defence here is. The title—what is it? “The Phoenix, or Solemn League and Covenant.” You all know it, and rue it. When was it printed? It was when the wicked rebels here could not seduce sufficient numbers of the king’s subjects to support their rebellion; and then they invite their dear brethren, as they call them, the Scots, to unite with them. The Scots were cunning: they would not do it till they had entered into a covenant, in a league, and then they consent to unite with the rebels here. This league and covenant was indeed in defence of the king; but how long? So long as he defended them, (the Presbytery and Scotch discipline.) When they had got this good king into their hands, they put what terms upon him they pleased, and then were these seditious sermons printed. Douglas’s was printed in Scotland:—Was it licensed here? No: it was done there and brought hither. Then for the other sermon, by what licence was that printed? Observe the time when it was printed. Was it not to set forward rebellion—to set up the Scotch Presbytery? and this in forty-five, when they were in arms against the king, after the king put himself upon his defence, and was at Oxford? Do you tell me of the licence of rebels, then, for your justification? Now when the king is so happily returned—now to publish these things afresh to the people, that they might do the same again! And I tell you once again, it is mercy in the king that he was not indicted for treason. I shall leave it to you—you have had it fully proved.

Clerk.—Set SIMON DOVER to the bar.

Serj. Morton. We have but two witnesses, and they will prove the matter clearly. There were two impressions of this book; we will prove he had a share in both of them.

Creek.—I delivered before what I can say.

Judge Keeling.—Look you, you must deliver all that evidence over again, because it concerns another person.

Creek.—I did say, and say still, that to the best of my memory, Mr. Dover did print part of that book, and that he and I did converse about it in the time it was doing; but I cannot swear it positively, because I cannot remember the time when, or the place where.

Judge Keeling.—Did you change sheets with him?

Creek.—With him, I cannot say; but some sheets were changed by our men.

Serj. Morton.—You say you think you had some discourse with him: did not you speak about the danger of printing it?

Creek.—We talked of making an end of it.

Serj. Morton.—Can you remember to what letter you printed?

Creek.—I have told the gentlemen of the jury.

Judge Keeling.—Had you no discourse of the danger of it?

Creek.—I thought it would not come to any thing: I did tell Sir R. Brown, (then Lord Mayor) that if they hanged twenty more, I thought I should print their speeches.

Judge Keeling.—You knew the contents of the book?

Creek.—Yes, I did.

Judge Keeling.—Such men as you, the king and the government hath a great interest in your trade: that you should think it lawful to print what a man says when he dies, and to scatter it abroad, though never so bad, it is a great offence: I would not have it pass for so clear a thing.

Ld. Ch. Just. Hyde.—If you are of such principles, to print what you list, you are not fit to live in a civil place; for a printer or bookseller to print anything one against the other, is actionable. Do you think the press is open to print what you list?

Creek. I did so then.

Ld. Ch. Just. Hyde. I will deal plainly with you: for this book, if you had your due, you ought both to have been drawn, hanged, and quartered. When did you give Mr. L'Estrange information of this matter?

Creek. Lately, when I was a prisoner in Ludgate.

Mr. Royston. (One of the jury.) I desire to ask him one question, whether Mr. Creek saw this book printing at Mr. Dover's house, or no?

Creek. No, I did not.

Serj. Morton. They changed sheets.

Justice Keeling.—Look you, Dover, you are indicted for causing to be printed this wicked book, and for publishing and vending of it. You are a printer by your trade, as well as this man who comes against you: he says he did not see you print it; but he took it, and believed that you printed it. I tell you how far that weighs: you are a printer by trade; and the other comes and desires the sheets; you would not deliver them unless Mr. Brewster and Mr. Calvert were agreed. How came the sheets to your house, being a printer, and yet you not print it? answer that.

Dover.—I shall, my lord: it does not follow at all. Admit I had these sheets, it does not follow that I printed them; for printers and booksellers usually have books they did not print themselves.

Ld. Ch. Just. Hyde.—Thresher, by the oath that you have taken, did you see those sheets hang upon the line in his house?

Thresher.—My lord, I judged these had lately hung up: and I saw other sheets hanging there; and I knew nothing to the contrary but those that hung upon the line were the same with these.

Ld. Ch. Just. Hyde.—Here are sheets upon the lines; you delivered him to fold part of those on the lines: what would you have more plain? you would not deliver them, if they were not agreed; then they were agreed, and you delivered them.

Dover.—I say this; I look upon this witness to be altogether invalid: he is not a person of good repute.

Ld. Ch. Just. Hyde.—A better man than you, for aught it appears: you are indicted for a foul offence, he is not.

Dover.—I am not the man you take me to be.

Ld. Ch. Just. Hyde.—You shall have evidence, if you will, that you are at work at this time upon as bad as this.

Dover.—If it be a crime, I am sorry for it.

Mr. L'Estrange sworn. Shall I speak to the whole matter, or only to the particular you last mentioned?

Ld. Ch. Just. Hyde. Say your knowledge.

Mr. L'Estrange. When I came to his house, which was about the middle of October, to search, I found at that present, a little unlicensed quacking book; and in his pocket the libel that was thrown up and down the town, called, "Murder will out," ready printed.

Ld. Ch. Just. Hyde. Which was a villainous thing, and scattered at York.

Mr. L'Estrange. Since that, I was at his house, to compare a flower which I found in the Panther, (a dangerous pamphlet;) that flower, that is, the very same border, I found in his house; the same mixture of letter, great and small, in the same case; and I took a copy off the press. I found over and above this letter, (producing the letter) dated the 7th of February, 1663, and directed, "For my dear and loving wife," J. Dover. Is it your lordship's pleasure I shall read it all?

Ld. Ch. Just. Hyde. If it be touching the printing of things you found, do.

Mr. L'Estrange. (Reads it.) "I would fain see my sister Mary; therefore, since sister Hobbs will not come, take her order, and instead of her name, put in sister Mary's; it will never be questioned here. However, do it as wisely and handsomely as you can," &c. (And then in a postscript,) "You must either get Tom Porter, or some very trusty friend, (possibly C. D. may help you) to get for you a safe and convenient room to dry books in, as soon as possibly you can." (And again :) "Let me know what you intend to do with the two sheets and half; I will have it published, when I am certain I shall be tried."

Ld. Ch. Just. Hyde.—Let the jury see now, whether you are the man you would be thought.

Dover.—I desire to know whether my name be to that letter?

Mr. L'Estrange.—No, it it not.

Ld. Ch. Hyde.—Where did you receive or find this letter?

Mr. L'Estrange.—My lord, I found it about his wife.

Ld. Ch. Just. Hyde.—Let the jury judge if this come from you, or no.

Judge Keeling.—You of the jury, you must understand this, that what is said now, is only upon his reputation, not to the point in question at all: that matter rests upon its own bottom.

Ld. Ch. Just. Hyde.—I will deal plainly with you: had he not stood upon such terms, I should not have spoken of this: but when a man will be thus bold and confident, I thought it proper, to let you see how he continues now in the gaol.

Dover.—I do not vindicate myself in it; but I speak against the witness: I do conceive that the witness does not fix any thing upon me.

Ld. Ch. Just. Hyde.—Have you any thing else to say to the indictment?

Dover.—I am indicted as a malicious and factious man. The witnesses say no such thing.

Ld. Ch. Just. Hyde.—You are not indicted so, but that you have maliciously and factiously caused to be printed such a seditious book; not your person, but the action.

Dover.—There is nothing of that proved. Admit I was guilty of it, it was done when there was no act or law in being, touching printing. The witnesses do not swear positively that I did it. One says he did not see me; the other that he only believed it; that he did see some sheets upon the line, and they were the same for aught he knew; does not remember the time or place of our discourse: I do not know that ever I had half an hour's discourse with him in my life; I never had any meeting with him about any such matter, nor had any converse with him. The title of the book says, "Faithfully and impartially collected for further satisfaction;" so that it cannot be interpreted maliciously. It is a maxim in law, that "the best interpretations are to be put upon the words of the indictment, in favour of the prisoner at the bar." And I hope this honourable

bench and the jury will mind that I am a printer by trade ; what I did was for my livelihood ; the scripture says, " He is worse than an infidel that takes not care for his family." I speak not this to justify any thing against his majesty or his government. Through my ignorance I may possibly transgress : if I have done any such thing, I am sorry for it ; I hope I shall be more careful for the future. The other part of the indictment is for selling of them. No man swears that I sold one book of them. Mr. Creek says, that some of his men told him that he had some of those sheets from some of my folks ; but of whom he does not say. That I did meddle with them knowing them to be scandalous, I hope there is nothing proved of that nature ; there being then no law, I humbly hope there was no transgression.

Ld. Ch. Just. Hyde.—Have you done ?

Dover.—I humbly desire your honours, and this jury, to take notice of what I have said.

Ld. Ch. Just. Hyde.—You of the jury, I will not spend time (it is too late) in repeating the evidence: You have heard the evidence particularly, and his answer. He doth in part make the same answer with his fellows, which was, that it is his trade. It is true, no doubt, but he ought to maintain his wife and family by his lawful calling ; but if a thief should tell you that he maintained his wife by stealing, is that lawful ? printing books lawfully, no man will call him to account for ; but if he prints that which is abusive to the king and his government, that is no part of his trade, and his trade will not bear him out in it ; he is charged for printing and publishing these scandalous books. That he did it knowingly, maliciously, falsely, factiously, and seditiously. I told you, that although all these things be not proved, yet if he did it, the law calls it malice, faction, and sedition. Consider the circumstances ; you see it is done in the dark ; the sheets delivered at his house, and discourse about delivery of them ; he would not deliver them unless Brewster and Calvert were agreed. I leave the evidence to you in this case : pregnant, strong, undeniable circumstances are good evidence. Though a man doth not come and tell you he declared to him he knew what was contained in this book, yet if there be sufficient evi-

dence to satisfy you in your consciences that he knew what was in it, and was privy to the printing and publishing of it, there is enough for you to find the indictment. You are to weigh circumstances, as well as pregnant full proof, in cases of this nature.

Clerk.—Set Nathan Brooks to the bar.

Serj. Morton.—We shall only prove this man, guilty of stitching and dispersing the said books.

Thresher.—This man I have not seen three years.

Serj. Morton.—Did he set you to work in stitching these books?

Thresher.—He brought none to me, that I can remember: but by Mr. Brewster's order I delivered about two hundred, or thereabouts, and carried them to his house in St. Martin's, and he took them at the stair-foot, and paid me for stitching them in blue paper.

Serj. Morton.—Who furnished you with blue paper?

Thresher.—I went by Mr. Brewster's order to a stationer in Bread Street, and received some.

Brooks.—I desire to know whether in those books he said he delivered me, there were those passages in the indictment?

Thresher.—I know not: they were the speeches and prayers that I delivered you.

Brooks.—How did you deliver them to me?

Thresher.—They were stitched, and I tied them up with a piece of pack-thread, and carried them to him: he received them himself, and came afterwards to an ale-house, and gave me a flaggon of beer. He knew what they were, for some being imperfect, he said Mr. Brewster must make them good; and Mr. Brewster gave order, if he came for them, they should be delivered him.

Brooks.—Did you know there were those passages in them?

Thresher.—No, not I.

Brooks.—I knew only the title of it.

Ld. Ch. Just. Hyde.—Let there be what there will in it, if you knew the title, look you to it. Have you any thing else to ask?

Brooks.—No, my lord.

M. L'Estrange.—I came to the house of Nathan Brooks, about October last, and knocking at the door, they made a difficulty to let me in; at last, seeing not how to avoid it, Brooks opened the door. I asked him, what he was? he told me he was the master of the house. By and bye comes one that lodged in the house, and throws down this book (shewing the book) in the kitchen, with this expression, "I'll not be hanged (says he) for never a rogue of you all: do you hide your books in my chamber?" This book had the speeches in it, with other schismatical treatises. After this I searched the next house, and there I found more difficulty to get in. But after a long stay, I saw the second floor in a blaze; and then with a smith's sledge I endeavoured to force the door; at length the fire was put out, and one came down and opened the door. I went in, and up stairs, where I found about two hundred of the prelatie preachers, and certain notes of Nathan Brooks, wherein he mentions the de-

livery of several of these speeches, and other seditious pamphlets. There is one particular, wherein he records, that Thomas Brewster, did in the presence of Capt. Hanson, undertake to bear his charges of imprisonment; this Nathan Brooks having been formerly imprisoned for a crime, wherein Brewster was to bear him out.

Ld. Ch. Just. Hyde.—What was it that burned above?

Mr. L'Estrange.—My Lord, they had burned, I suppose, some of the prelatie preachers (a desperate book): I found one bundle untied, and I suppose (as the man told me after) that it was a part of that which was burned.

Ld. Ch. Just. Hyde.—You say this was in the next house to Brooks; what had Brooks to do there? Had he conveyed those books hither?

Mr. L'Estrange.—The owner of the house said he knew nothing of them; but a man and his wife, lodging in the chamber where the fire was, said, that Nathan Brooks had delivered with his own hands to them the parcel of books that were there found.

Ld. Ch. Just. Hyde.—You hear what he says, that one of your guests came down, said, “he would not be hanged for never a rogue of you all.” (Throws down the book).

Brooks.—What is that to me, if a man have a book in his house, and throw it down, and say so, doth that concern me? he did not bring it out of my chamber.

Ld. Ch. Just. Hyde.—Here are two hundred of these books delivered to you to sell; fifty you deliver to another. When Mr. L'Estrange comes to search, you open not your doors; when you see you could not stay longer, you run up to deliver it to Mercer, your guest; he would not receive it; you deliver it to his sister; she keeps it in her hands. When her husband had denied books to be there, and his wife understanding afterwards you had left it, she was afraid of her husband for denying it, calls him, and gives him the book; and then he said, “He would not be hanged for never a rogue of you all.” (Throws down the book.) That was the very book she received from you, and yourself did own it and confess it.

Brooks.—As for Mr. L'Estrange, it is as he says, when first he knocked at the door, I did not hear him. Afterwards I called out, Who is there? Said one, Where is Mr. Brooks? said I, Here. I told them, if they would be civil, I would open the door, give me but leave to put on my breeches. I went and opened it. He doth not swear positively they are my books. My Lord, this Mercer was a lodger in my house, I have often desired him to pay his rent, and since I have been taken, I have sent several messengers. I told him I would seize his

goods, and thereupon he speaks against me maliciously. I desire you to consider, that being only a workman, how can I be guilty of sedition and scandalous things? I never printed any thing, I am only a bookbinder—that is my trade. I hope you will consider that I am only a bare workman. My Lord, I desire when they go out, that somebody may stand at the door, that nobody may come in to the jury.

Ld. Ch. Just. Hyde.—We will take care of that. Have you any more to say?

Brooks.—No, my Lord.

Ld. Ch. Just. Hyde.—You of the jury, you have heard so much of the other indictments of the same nature, I need not say much to this. That which he speaks concerning his trade, I must repeat the same as before. He is not questioned for using, but abusing his trade—for publishing and dispersing seditious and scandalous books, printing and publishing, but the evidence is only for publishing. If you be satisfied that he published it, that is the crime. Printing alone is not enough, for if a man print a book to make a fire of, that is no offence—it is the publishing of it which is the crime. You have heard the evidence, how far it is proved, that two hundred were delivered to him, and fifty by him delivered to another. You see his own conscience tells him what this book was. When Mr. L'Estrange came, he would have slipped it into his guest's chamber—he refused it—then he carries it to another. Lay your evidence together; if you find him guilty of the publishing, it is enough.

Jury.—We desire to know upon what statute law this indictment is grounded?

Ld. Ch. Just. Hyde.—Upon none; but it is an offence at common law—I told you so at first.

The jury withdrew, and after near an hour's consultation, returned to the court, and took their places.

Clerk.—Set up the prisoners to the bar. How say you, is Thomas Brewster guilty of the offence whereof he stands indicted, for printing the seditious book called, “The Speeches, &c.” or not guilty?

Foreman.—Guilty of selling and uttering the said books.

Clerk.—What say you, is he guilty of the offence of

printing and publishing the book called "The Phoenix," &c. or not guilty?

Foreman.—Guilty of publishing it.

Clerk.—How say you, is Simon Dover guilty of the offence of printing and publishing "The Speeches," &c. or not guilty?

Foreman.—Guilty.

Clerk.—How say you, is Nathan Brooks guilty of the offence of selling the said book?

Foreman.—Guilty of selling it.

Mr. North.—My Lord, we humbly pray sentence against the prisoners.

Ld. Ch. Just. Hyde.—You three, Thomas Brewster, Simon Dover and Nathan Brooks, have been severally indicted for a heinous and great offence. Brewster, you have been indicted for two several books, as full of villainy and slander, and reproach to the king and government, as possibly can be: and I will tell you all three—"it is the king's great mercy you have not been indicted capitally; for every one of those books are filled with treason, and you for publishing of them, by strictness of law, have forfeited your lives and all to the King. It is his clemency towards you. You may see the King's purpose—he desires to reform, not to ruin his subjects. The press is grown so common, and men take the boldness to print whatever is brought to them, let it concern whom it will—it is high time examples be made. I must let you and all men know, by the course of the common law, before this new act was made, for a printer, or any other, under pretence of printing, to publish that which is a reproach to the king, to the state, to his government, to the church, nay to a particular person, it is punishable as a misdemeanour. He must not say, "he knew not what was in it"—that is no answer in law. I speak this, because I would have men avoid this for the time to come, and not think to shelter themselves under such a pretence. I will not spend time in discoursing of the nature of the offence, it hath been declared already; it is so high, that truly the highest punishment that by law may be justly inflicted, is due to you. But, Thomas Brewster, your offence is double. The judgment of the court is—

"That you shall pay to the king for these offences committed, an hundred marks: and for you (the other two) Simon Dover and Nathan Brooks, you shall pay either of you a fine of forty marks to the king.

"You shall either of you severally stand upon the pillory from eleven to one of the clock, in one place at the Exchange, and another day (the same space of time) in Smithfield; and you shall have a paper set over your hats, declaring your offence, 'For printing and publishing scandalous, treasonable, and factious books against the king and state.'

"You shall be committed till the next gaol delivery, without bail; and then you shall make an open confession and acknowledgment of your offences, in such words as shall be directed you.

*"And afterwards you shall remain prisoners during the king's pleasure: and when you are discharged, you shall put in good security by recognizance, yourselves 400*l.* a-piece, and two securities each of you of 200*l.* a-piece, not to print or publish any books, but such as shall be allowed of. And this is the judgment of the court."*

John Twyn was executed a few days after at Tyburn, amidst an amazing concourse of people. He refused to the last moment to discover the author of the alleged libel.

COLONEL JAMES TURNER, JOHN TURNER,
WILLIAM TURNER, MARY TURNER,
AND ELY TURNER,

FOR FELONY AND BURGLARY, JAN. 15, 16, AND 19, 1663.

THE Indictment set forth,

That the said James Turner, John Turner, and William Turner, the 7th day of January, in the 15th year of the king, about ten of the clock of the night-time of the same day, at the parish of St. Dionis Back-church, in the ward of Lime-street, London, the dwelling-house of one Francis Tryon, merchant, did feloniously and burglariously break and enter, and on him the said Francis Tryon, then and there being and resting, feloniously and burglariously did make an assault, and him the said Francis Tryon in corporal fear of his life feloniously and burglariously did put; and one pendant pearl set in gold, and a precious stone fixed thereunto, of the value of 150*l.*; two other pendant pearls, [and other jewels of a very considerable value] and 1023*l.* of money, being the goods and chattels of the said Francis Tryon, did feloniously and burglariously steal, take, and carry away: And that afterwards, the 8th day of January, in the fifteenth year aforesaid, at the parish and ward aforesaid, the

said Mary Turner and Ely Turner knowing the said John Turner to have committed the said felony and burglary, did receive, comfort, and maintain him, against the king's peace, his crown and dignity, &c.

To which indictment the prisoners severally pleaded *Not Guilty*.

The prisoner, James Turner, complained to the court that the sheriffs had taken possession of his house and seized his goods.

The sheriffs said they conceived they had done nothing but what was customary. That having heard the prisoner was committed for felony and burglary, and none but children being in the house, they thought it for his good to secure his estate in case he should be acquitted, and for the king's benefit if he should be convicted, that so the goods might not be embezzled; and therefore they had caused an inventory to be made, but they had dispossessed no body. They had indeed left a servant or two in the house, but they had offered the prisoner to leave the goods with any friend of his that would undertake they should be forthcoming if he was convicted.

The Lord Chief Justice Hyde said, that the goods of a man accused of felony were not forfeited till conviction, and that the prisoner ought to have them to live upon; but on the other hand, it was but prudent and agreeable to law to take care the goods be not embezzled, because on a conviction they were forfeited to the king, and therefore the sheriffs had done no more than they ought to do, to see that the goods were not taken away; he might have what he would for his present supply, and if any one would give security, they should be forthcoming; they might have the keeping of them.

Then the prisoner said he had several papers in his house that were necessary for his defence, and desired he might be permitted to go and fetch them; but the court said they could not give him leave. He was in the sheriff's custody, who was answerable for him. He desired then that one of his sons might go, but was told they were indicted with him; but if the sheriff would send one with them, he might. The prisoner desired he might have the process of the court to bring in his witnesses.

The Lord Chief Justice Hyde answered, they could

grant no precept to bring them in ; the court could not compel them to come in.

Then he desired that the prosecutor himself might be in court ; but the Lord Chief Justice said they could not compel him, if he would forfeit his recognizance. After which the prisoners were remanded to prison.

The 16th January, 1663, the prisoners were again brought to the bar, and a jury were sworn and charged with them, and the king's witnesses were called, and first, Sir Thomas Aleyn was sworn. He deposed,

That having heard of this robbery on Friday se'night in the morning, he went to visit Mr. Tryon in the afternoon, and he was desired to examine the business ; and first, he examined Mr. Tryon's man and maid, who confessed they had supped abroad at a dancing-school, and hearing one Mr. Tryon was robbed, they hastened home : That he demanded whether they used to go abroad after their master was a-bed, and the man said he had been twenty or thirty times at Colonel Turner's (the prisoner) at supper, about a year since ; but (though this proved to be false) this was the first occasion of their suspecting Colonel Turner : That the deponent then proceeded to examine the Colonel, who not denying it as a person of his spirit might be presumed to do, confirmed the deponent's suspicion. Then the deponent directed his house to be searched, but they could find nothing there : That the next morning Alderman Love came to the deponent, and informed him, if he would go into the Minories he might discover who robbed Mr. Tryon ; and that Mr. Turner had removed several hundred pounds that morning, and that Mr. Love told him he would meet a maid-servant of his at such a corner, who would shew him the way to the place ; and he did so ; and at the further end of the Minories he went into a shop, and found Colonel Turner with his hand in a chest, and there were two wallets there, one of 100l. and the other of 200l. ; and in a chest in the kitchen the deponent found two wallets more, whereupon the Colonel was speechless : That afterwards the deponent examined the Colonel where he had this money ; he answered, it was removed by himself, his wife, and children that morning ; that he removed it till this foolery was over ; and the Colonel said he received it of a goldsmith about fourteen days before, whose name he had forgotten : That the Colonel desired he might go to Mr. Tryon's, and they took coach, and carried him and the money to Mr. Tryon's house ; and the Colonel said Mr. Tryon should have all the rest of his money and jewels again by three o'clock that afternoon ; whereupon they let him go ; but the deponent coming to Mr. Tryon's again about four in the afternoon, understood that the Colonel was arrested ; whereupon the deponent sent for the Serjeant and the Colonel, who when he came said he had brought all the things, if the officers had not prevented him, and pressed very hard for an hour or two, and said if he did not go, Mr. Tryon would lose the rest of his money and jewels. Then he begged he might go but to the Hoop Tavern and send for his wife ; which being granted, he sent his wife for the jewels,

and the deponent directed the officers to secure her when she returned. About eleven o'clock his wife came, and then the Colonel desired to speak with Mr. Tryon in private; and afterwards told the deponent that Mr. Tryon's soul was pawned to him, and his to the thief's, that no discovery should be made: That when the deponent examined his wife, she denied that any money went from their house that morning; and being examined where she had the jewels, she said she knew of none; but she had a couple of bags that she was sent for: near Whitechapel or the Tower she said she was told a person should meet her, and ask what she did there, and she was to answer she walked up and down for something that should be given her; and one brought her the two bags, which she delivered to her husband; but what was in them she knew not: The Colonel said he had performed his part, and he hoped Mr. Tryon would perform his: That they run over the jewels, and there were all except one carcanet of diamonds and jewels, valued at 200*l.* and one cat's-head eye-ring she had upon her finger, but that was delivered: The Colonel said the carcanet should be forthcoming too, (it was fallen down behind a chest) and he would give Mr. Tryon his bond to pay him the remaining 600*l.* in six months; and pressed that there might be no prosecution, for two souls he said again were pawned for it, and desired an end of the business. But they told him the examination had been public, it was not in Mr. Tryon's power to end the matter with him, but that he and his wife must be sent to Newgate; whereupon the Colonel answered, how say you Mr. Alderman! then I had better have kept the jewels.

Ld. Ch. Just. Bridgman.—Then on Thursday the robbery was committed, on Friday he was examined, Saturday the money was removed, and that night the jewels were brought, and he was committed.

Sir Thomas Aleyne.—I have this further to add, that before he went to the Hoop Tavern, he confessed it was Mr. Tryon's money that he removed. - And when I bade them secure his son at the Minories, he ran out at a back-door, and leaped over a ditch, and could not be heard of till yesterday, though I sent out warrants against him.

Mr. Tryon sworn. He deposed that on Thursday night was se'night, about eleven o'clock, two men came to his bed-side, and one of them who had a lanthorn waked him, and asking them who they were, and what their business was, they made no answer, but bound and gagged him, and used him very barbarously. That his servants it seems were out at supper that night, so when he had lain in this condition about an hour, he rolled himself off the bed, and fell upon the chamber-pot, which broke and hurt him; however, he made a shift to get to the window, and cried out murder, thieves, &c. and his neighbours came in and unbound him. That he then went down to his warehouse, and found the jewels and money gone, and observed it must be somebody that was privy where he laid his

jewels, as the prisoner James Turner was, and said that Turner used to frequent his house, and they were very familiar.

Mr. Tryon's man Hill, sworn :

He deposed, that when he went out that night, he left the door double-locked, and the jewels were safe then, and that when he returned, all the best jewels were gone. That he was saying to the prisoner, that Saturday he was in custody, that if he and the maid had been at home, he supposed they should have been killed; and the Colonel answered, they would only have bound him and the maid. And asking him further, how it was possible they could get in? the Colonel told him, one went through the entry in the day-time, and lay there till night, and then let others in. And upon asking how he came to know it? the Colonel said he examined them.

Hill deposed further, that about a year before, Colonel Turner would have had him got a will forged for old Mr. Tryon, he having no children; and made himself and two more executors.

Ld. Ch. Jus. Hyde.—Did not you go to Mr. Turner's that night the robbery was?

Hill.—No; the maid and I went to Mr. 'Starkey's, and hearing there was such a robbery, I ran home in a great fright, and found the doors open, and the neighbours within.

Turner said, as to the business of getting Mr. Grainger to forge Mr. Tryon's will, it was spoken only in jest, but Hill affirmed the contrary.

Elizabeth Fry, sworn :

She deposed, that about six, last Saturday morning, Mrs. Turner came to her house, and called her up, and told her that a friend of hers, a merchant, was lately broke, and he had a wife and seven children, and they desired to secure their money till they had taken their oaths the money was not in the house, and that her husband and her son Ely, were coming with the money, and asked the deponent if she had a spare chest. That Turner, the husband, came in and asked his wife concerning the seals, and she said, the gentlewoman who owned the money, had desired her to pull them off. And they offered the deponent twenty shillings for her kindness, and said the gentlewoman impowered them to give it, and bid the deponent conceal it, because the discovery would ruin the gentlewoman and her children, and if any one questioned her about it, she should say they desired her to let some linen lie there.

Ld. Ch. Jus. Hyde.—When the money was brought, was there any discourse of eleven hundred pounds?

Fry.—To the best of my remembrance it was so. There were five wallets brought into my house, three were put into a chest in the shop, and two in the kitchen.

Mr. Gurnet sworn.

He deposed, that he met with Colonel Turner the Saturday after the robbery, and he said he did not doubt to make a discovery of the thieves, and clear himself, and that he had already met with the jewels and 500*l.* of the money, and the rest he should have by three o'clock in the afternoon; and on the deponent's asking who the thieves were, he said they were friends, but that two of them being

strangers, went beyond their commission in using Mr. Tryon so barbarously as they did.

Major Ralph Tasker sworn.

He deposed, that on Saturday morning, Sir Thomas Aleyn met him, and took him into the Minories with him, and two maids shewed them the house where Colonel Turner was, and they found him with his hand in a chest, and there were two buckram bags of about 200l. each, and another in the kitchen; that one whom they said was Colonel Turner's son, fled out of the house, and that Sir Thomas Aleyn pressing Colonel Turner to know whose money it was, the Colonel swore by the Eternal God, it was his own. And that they sent for a constable, and took coach, and carried the money and the Colonel to Mr. Tryon's, and that the Colonel and Mr. Tryon having had some discourse in private, the Colonel came out and said, the old gentleman and I am agreed, I will trust the money no longer with you, but with the old gentleman himself.

Ld. Ch. Just. Bridgman.—Did you see the bags out of the wallets?

Sir Thomas Aleyn.—We saw one which was sealed, I think with the Bishop of Chichester's seal.

Ann Ball sworn.

She deposed that she was in bed when Mr. Turner and his wife brought the money to Fry's house. That she saw Turner and his wife come in, and when she understood they had brought money, she told Mrs. Fry they should be undone if they kept it in the house, and that thereupon Fry went and acquainted her sister, and so it came to Sir Thomas Aleyn's ears.

Fredrick Ixam sworn.

He deposed, that he was at Mr. Tryon's on the Saturday night, and saw the bags of money taken out of the several wallets, and one of them had a seal, which was said to be like the Bishop of Chichester's, and they compared it with the seal of a letter which Mr. Tryon had received from the Bishop, and found them agree.

Hanson, the goldsmith, sworn.

The Bishop of Chichester's letter and the seal on the bag being shewn this witness in court, he deposed that the seals did agree; and they were also shewn to the jury.

Cole, the serjeant, sworn.

He deposed, that on Saturday in the afternoon, he arrested Colonel Turner in an action of 700l. at the suit of Thomas Lyon, and others, that were bail for him; and having him at the Hoop Tavern, the constable came and charged them to assist him in taking Colonel Turner before Sir Thomas Aleyn, and that discoursing afterwards how Mr. Tryon's house could be robbed, and none of his doors broke; Colonel Turner said he had taken a man in the Minories, who had discovered how it was. That one went down into the cellar in the day-time, and lay there till the old gentleman was in bed, and then took the key from his bed-side, and let in the rest; and Mr. Tryon's servant, saying, he supposed if the maid and he had been at home, they should have been killed, the Colonel said no, you would only have been bound.

Ld. Ch. Jus. Hyde.—Did he say nothing of Mr. Tryon's tooth?

Cole.—He said, that the fellow putting his finger in his mouth to

gag him, the old gentleman bit him ; and struggling to get out his finger, he pulled out a tooth.

Ld. Ch. Jus. Bridgman.—What do you know, Mr. Hill, about breaking your own desk ?

Hill.—My desk was locked, and the key in my pocket, and I lost out of it about 45*l.* of my own money. It stood upon a table in the warehouse, and the jewels were in a drawer under a table in the counting-house.

Ld. Ch. Jus. Bridgman.—How did you leave Mr. Tryon's door ?

Hill.—Double locked, and I had the key in my pocket, and my master had another key in his chamber.

Ld. Ch. Jus. Bridgman.—Mr. Tryon, how was your door opened ?

Mr. Tryon.—They forced open the street-door with a crow of iron, and I never lock my chamber-door.

Ld. Ch. Jus. Hyde.—Were your counting-house and till where the jewels lay, locked ?

Mr. Tryon.—Yes, and the till was opened, I know not how ; my key was among a bunch of keys.

Peter Vanden Anchor, sworn.

He deposed, that being just come home, his daughter said, she heard a great cry of murder, and he ran out, and found some of the neighbours breaking open Mr. Tryon's door, and he first got into the house, and ran up to Mr. Tryon's chamber, and found him bound with a rope.

Chaplain sworn.

He deposed, that he was at Mr. Tryon's door with Mr. Vanden-anchor, and they went into the warehouse, and found the cash, &c. taken away, without breaking anything ; but that several pieces of plate were left ; that soon after Mr. Tryon's man came in, and said, he had been at Colonel Turner's at supper ; but the maid, when she came, said, they had been at one Chamberlain's, a goldsmith ; and that a little after, Colonel Turner came in, and made a great bustle. And the deponent observed, that all the doors were opened with keys, and he said, they asked Mr. Tryon who bound him, and he said he thought one Christmas.

Christmas sworn.

He deposed, that about two of the clock, on Friday morning, a constable came and knocked him up, and said he must go to Mr. Tryon, for he had been robbed, and that he came out to him, and they carried him to the Exchange, and from thence to the Compter ; and about ten the next morning, Colonel Turner came and asked him what Justice he would go before, and they went before Sir Thomas Adams ; and nobody charging him with anything, Sir Thomas discharged him.

Mr. Millington sworn.

He deposed, that he came to Mr. Tryon's on Saturday in the evening, and Mr. Turner told him of his being arrested, and said it prevented his getting the jewels and the remainder of the money, and desired the deponent would intercede, that he might go about the jewels, and said, if he did not go presently, the thief would be gone ; and he said he was walking about Tower-hill, or White-chapel ; but the serjeants said, this was out of their liberties, and

they would not go with him, but some of them on his importunity went with him to his own house, and his wife was some time in private with him behind a partition, and when they came out, he said publicly to his wife, that there was a man would be walking all alone on Tower-hill, and bade her go thither, and he would deliver her what he told her; and about two hours after, the jewels were brought by his wife, and Mr. Turner carried them to Mr. Tryon's, and they were opened, and they found one carcanet jewel wanting, of 200l. value, and Mrs. Turner said, the man told her, it was fallen behind a chest, but did not doubt to procure it to morrow. That Sir Thomas Aleyn, telling Turner he must commit him to Newgate, Turner said, then he had better have kept the jewels; and the remainder of the money being demanded, Turner said he would be bound for it.

Mr. Mannock sworn.

He deposed, that Colonel Turner told him in Newgate, Mr. Tryon was to give him 500l. to get his jewels and money again, and that he had got him 500l. and most of the jewels, and believed he should have had them all, if Sir Thomas Aleyn had not secured him; and he told him the five hundred pounds he delivered Mr. Tryon, were had at his own house.

Sir Thomas Chamberlain sworn.

He deposed, that he was with Sir Thomas Aleyn at Mr. Tryon's, when the several examinations were taken. That they very much suspected Colonel Turner, he being familiar in the house, and coming often for jewels, knew where every thing lay. That before Mrs. Turner came in with the jewels, Sir Thomas Aleyn received a note, whereby he was assured, that Turner and his wife had been at the house in the Minories; which when they acquainted Mrs. Turner with, she swore and took on, and said, she was a lying whore that said she had been there; and Colonel Turner came in and cursed and swore, and said, why do you vex and torment my wife? she is with child. That Sir Thomas Aleyn saying he must make a mittimus for him and his wife, she said to her husband, do you send me of your errands? you shall send somebody else another time, I thought it would come to this.

Sir Thomas Aleyn deposed further, that William Turner being taken and brought before him as a person of ill fame, and likely to do such a thing, and Mr. Tryon looking on him, and suspecting him to be one of them, the deponent demanded, when he saw Colonel Turner, and William Turner answered he had not seen him to speak to these three years.

William Daws sworn.

He deposed, that William Turner was at his house drinking a pot of beer last Wednesday sen'night, and a neighbour came in, and told the deponent he was a dangerous fellow; and that soon after Colonel Turner came in and paid for the beer, and William Turner and the Colonel went away together.

Rouse, servant to William Daws, sworn.

He deposed, that upon Wednesday the 6th of this instant William Turner came to their house, and said he staid for Colonel Turner;

and after some time, Colonel Turner came in and paid for the beer, and they went away together.

Peter Cully sworn.

He deposed, that he was with Sir Thomas Aleyn, &c. at Mr. Tryon's, and asking Colonel Turner, why the money was carried from his house to the Minories, the Colonel affirmed with an oath, that there was none carried.

Mr. Watcher sworn.

He deposed, that the last Saturday Colonel Turner said on the Exchange, that Mr. Tryon should have all his money and jewels by three that afternoon, and that if any man could say he lost six penny worth of his money or jewels, he had two fellows in custody, that should suffer for it; and asking him why the money was removed from his house to the Minories, the Colonel denied it with an oath.

Mr. Garret sworn.

He deposed, that when they were looking over the money at Mr. Tryon's, Colonel Turner said, Jack, take notice this is my money; but they compared the seal of one of the bags with the Bishop of Winchester's, and found them agree.

Mr. Pilkington sworn.

He deposed, that he was with Colonel Turner at the Hoop Tavern, and that the Colonel gave them that account of their usage of Mr. Tryon, and getting into his house, as Cole the serjeant, and some of the other witnesses had already deposed.

Mr. Martin's coachman sworn.

He deposed, that about eight or nine o'clock on Thursday night, as he was driving by Mr. Tryon's, he saw four men standing by his door, and every one had a handkerchief about his neck, and a great cudgel in his hand, and they pulled their hats over their faces, which made him suspect such a business.

Mr. Tryon deposed further, that he believed William Turner was one of those who stood by his bed-side, and struck his tooth out. That at least he was very like him in face and size, and they had no vizards on.

Col. Turner said in his defence, that he and his family were in bed and asleep that night Mr. Tryon was robbed; and that the constable coming to him, and acquainting him with the accident, he went to Mr. Tryon's, who desired his assistance to find out the thieves; and that Mr. Tryon having been like to be robbed a year before, by a gang that harboured about Tower-hill, he went thither about twelve o'clock on Friday night, and there he met one Wild, whom he suspected to be one of the thieves, and charged him with it, and seized him by the collar, and Wild promised him to produce the things, if he would not prosecute him, and the Colonel promised on his salvation he would not;

and then Wild whistled, and there came another fellow, whom he sent for the money, and it was carried to the Colonel's house, and afterwards to the Minories, to induce Wild's confederates to bring the rest of the money and the jewels thither, under a pretence of sharing them. That when he was taken up, he was forced to send his wife to Tower-hill, who met Wild, and received the jewels according to appointment; and the Colonel added many other improbable circumstances.

Ld. Ch. Just. Hyde.—You have told a long story about Wild; that you took him by the throat, and that you were alone. What weapons had you?

Col. Turner.—None, my lord.

Ld. Ch. Just. Hyde.—When you let him go, and he called other fellows; in such a case as this, would not they have knocked you on the head?

Turner.—My lord, Wild had engaged his soul to me, and I had engaged mine to him.

Ld. Ch. Just. Bridgman.—Great security indeed!

Then Colonel Turner called some witnesses; and first—Mosely the constable.

He deposed, that he came to Mr. Tryon's house, and found him bound on Thursday night; that soon after Mr. Tryon's man came in, and they asked him where he had been, and he said at Colonel Turner's at supper; whereupon the deponent went to Colonel Turner's, and asked, where his sons were, and he said they were in bed, and desired the deponent to go up and see.

A servant of the Marquess of Dorchester called.

He deposed, that Colonel Turner's sons were at his lord's that night the robbery was, from between seven and eight until nine o'clock.

Colonel Turner's maid called.

She deposed, that her master and his sons were at home all Thursday and Friday nights; whereupon the court observed, she would say any thing, and she was set aside.

Mr. Cook was called.

He deposed, that he had known Colonel Turner these twenty years, had dealt with him for several hundred pounds, and trusted him, and found him very faithful. That he had seen jewels in his possession of the value of eight or ten thousand pounds; and that if

he had been such a person as he was accused to be, he might have broke very advantageously.

Mr. Legoose deposed that the Colonel had been solicitor for him in a business, and dealt very faithfully; though indeed he had the report of a person that lived too high.

Mr. Jefferies deposed, that he understood Mr. Tryon used to trust the Colonel with jewels of a considerable value, and had a good opinion of him.

Col. Turner.—My lord, if Sir Thomas Aleyn would have let us go, we had taken the thief.

Alderman Smith.—Did not I speak to you, and advise you to let us know where the man was, and I would go myself, or any of the persons present, and you utterly refused it, and said, there were two souls pawned, and you would not discover him?

Marshal.—He refused to let us go with his wife, and said, the thief would meet no man.

Ld. Ch. Just. Hyde.—William Turner, what have you to say?

William Turner.—I was at home. I never was at Mr. Tryon's in my life, until I was there with Sir Thomas Aleyn.

Ld. Ch. Just. Hyde.—John Turner, you are charged with being very busy with your father and mother in removing the money; and when you had notice you would be apprehended, you ran away.

John Turner.—I did not know who was come, or whether they came to apprehend me, or no; but the woman saying, flee for your life, I got away; and I confess I did carry two bags from Wild upon Tower-hill to the house in the Minories, before Sir Thomas Aleyn came.

Ld. Ch. Just. Bridgman.—This is a likely story, that you should in the day time, between eight and nine in the morning meet a noted thief at Tower-ditch, to receive two bags of money.

Ld. Mayor.—How many turns did you make, when the money was carried from your father's house to the Minories?

John Turner.—My father and I went twice; the first time I carried 200*l.* and the next time 300*l.* as near as I can judge.

Ld. Ch. Just. Bridgman.—William Turner, upon what occasion did you meet James Turner at the ale-house?

William Turner.—I did not come thither to meet him; but having no money, and seeing him come by, I called him in, and I desired him to pay for my drink, and so we parted.

Then the Lord Chief Justice Hyde directed the jury: he told them, that as to Mary Turner, though she seemed to have a hand in the business all along, yet it appearing to be by the direction of her husband, she could not be made an accessory; and as to Ely Turner, the other accessory, he did not find any evidence affected him; for it appeared to be John that carried the money, and not he. As to the rest he said, where several men come to rob a house, and some enter, and others stand without to prevent their being surprized, they are all guilty of the burglary.

The Lord Chief Justice Bridgman added, that if the door were not broken open, but opened by a picklock, it was nevertheless burglary; that as to the story of meeting the thief upon Tower-hill, it ought to be rejected as a perfect romance. And admitting that one of the thieves came in at the door in the day-time, and let the others in in the night, it was nevertheless burglary in them all.

The jury having withdrawn, returned in about an hour, and brought in James Turner guilty, but acquitted the rest.

The 19th of January, sentence of death passed upon Colonel James Turner, and he was hanged the 21st of January, in Leadenhall-street, near the end of Lime-street, where Mr. Tryon lived.

Before he suffered, he confessed, that himself, William Turner, one White, a solicitor, and White's friend, committed this robbery, but that his wife and sons knew nothing of it. And he restored Mr. Tryon the carcanet of rubies and diamonds that was wanting.

MURDER OF THE MARCHIONESS DE GANGE,

BY HER HUSBAND'S BROTHERS, 1667.

THE marchioness de Gange was an accomplished beauty ; and though of no distinguished birth, yet as the fortune of her grandfather by the mother, which she was to inherit, amounted to upwards of 20,000*l.* she was thought a proper match for persons of the first quality. She was the only daughter of the *Sieur de Rossan* of *Avignon* : her mother's grandfather was named *Joanis Sieur Nocheres*. In her youth she went by the name of *Mademoiselle de Chateaublanc*, which was the title of one of her grandfather's estates.

At the age of thirteen years she married the *marquis de Castellane*, grandson to the duke of *Villars*. He was descended from an illustrious family, of a comely personage, and of a happy natural disposition. He had been educated at court under his mother the marchioness de *Ampus*, and distinguished himself in all the manly exercises. Their marriage was solemnized in the year 1649. He brought her to court, where she made a shining figure.

Louis XIV. who was then in the prime of youth, appeared struck with her beauty, on which he could not forbear bestowing high encomiums. He danced with her in one of those balls where gallantry and magnificence were united. She acquitted herself with so much grace, and appeared in a dress so well adapted to her beauty, that the whole court gave testimony in her favour. From that time she became better known by the name of the *Fair Provincial*, than of the *Marchioness of Castellane*.

The king did her the same honour a second time at another ball, where she still appeared with new graces ; they sprung up under her steps, and accompanied her in all her motions. A phrase, which though not new, seemed calculated on purpose for her. The *Queen of Sweden* admired her beauty, and declared that in all the kingdoms she had surveyed, she had seen nothing equal

to her; and that if she had been of the other sex, her heart and affections had been at her devotion.

The marchioness de Castellane joined to the exquisite beauty of her person a singular goodness of disposition, a tenderness of heart and commiseration towards the infirmities of others; a mind easy, sociable, rather judicious than lively, more solid than showy.

She was just arrived at that happy and flourishing state of life wherein her beauty, in spite of herself, procured her a kind of adoration from all who beheld her, when she received the melancholy news of the shipwreck of the galleys in the Sicilian sea, and that her husband, the marquis de Castellane was buried in the merciless waves.

The loss of so tender a relation, filled her heart with anguish, more easy to be conceived than expressed. Yet she remained some time at court with her mother. And from thence she removed to Avignon, whither she was called by the urgency of her affairs.

As she was not made for a solitary life, in the tribe of illustrious admirers who longed to join their fortune to hers, she hearkened to a proposal of marriage made her by the Sieur de Lande, marquis de Gange, a young man about the age of twenty, of a distinguished family, baron of Languedoc, governor of St. Andrew, and sufficiently furnished with the gifts of fortune.

Love, which united them from their first interview, inspired all the world with the opinion that they were made for each other.

Their characters, however, were widely different, as far as pride is from gentleness, a haughty spirit subject to capricious irregularities, to a mind uniformly equal.

Dissembled tenderness, which cast a veil over the faults of the husband, sweetened the first days of their marriage. It was in 1658 their nuptials were celebrated; the marchioness de Gange being then in her twenty-second year.

Notwithstanding the charms of the marchioness de Gange at first gave such high delight, the marquis soon ceased to be so assiduous to his wife, and went much abroad in the world.

The marchioness followed his example: but as she had a large fund of virtue, she aimed only at innocent

recreation, without having any designs upon those of the other sex with whom she conversed; and no sooner did she perceive them grow too officious, than she shunned their company for that of others, who saw her with more indifference. This conduct, however innocent, was misrepresented by the husband's friends, who took occasion from thence to inspire him with jealousy.

As jealousy is the common topic of ridicule, and no man would be ridiculous with his good will, the marquis concealed his anguish, and suffered it to prey upon him in secret; besides, the marchioness giving no handle to just suspicion, he even dared not to speak his sentiments out to the world. But his gloomy sorrows grew at length into an habitual ill-humour, and he never presented himself to the marchioness but under a sullen and discontented aspect; thus all the pleasures of that lady were alloyed with bitterness. In this manner she passed away several years without enjoying one serene peaceful day. Such were the preludes to her disaster, when the abbé and chevalier, her husband's brothers, who were destined to be the artificers thereof, came to reside with the marquis. As they acted the barbarous part in this history, it is proper to bring the reader acquainted with them. The abbé had in him the spirit of a devil, he was wicked and malignant in the superlative degree; he was debauched, impious, and profligate, taking these epithets in their utmost extent. He had tied himself down to no religious order; having chosen that neutral state, as what favoured most his licentiousness. He was a man violent, imperious, headstrong in his passions, and would needs have all the world yield to him. But he could turn himself into every shape, to compass his diabolical ends, even into that of virtue itself; assuming the character of amiable generosity and benevolence, gentle, officious, and complaisant, with a heart compounded of all vices.

The chevalier was of a middling soul, formed for being governed. Of him the abbé disposed as he pleased, not so much as deigning to give him a reason for the laws which he imposed upon him; and he sweetened the ascendancy he had over him with so much art, as to govern him without letting him know he was governed.

It is indeed no great wonder that so weak a man suf-

ferred himself to be thus easily led, when we sometimes see great geniuses become mere tools to the crafty purposes of others; it is only laying hold of their blind side, and by using a little address, you may lead them at will. Of this the Marquis de Gange is a glaring instance. Though he was a man of knowledge and discernment, the abbé had him entirely under management, by making him believe he was devoted to his interest, and capable of supporting by his counsel the dignity and splendor of his house; giving him a high idea of his capacity for managing his fortune, and laying out his revenues to the best advantage. Thus he left the marquis the bare name of master of the family, and transferred all the authority to himself.

The abbé no sooner saw the marchioness than he felt the first impressions of love. He presumed that the authority of which he had possessed himself would lead him to his end, especially as he was officiously zealous to please the marchioness, prepossessing her husband in her favour, representing her virtue to him in so advantageous a light, that he quite extinguished his jealousy, and gave his heart and soul a prevention of esteem and tenderness towards her.

The marchioness saw her situation quickly changed, and her first joyful days of marriage again arise. She received the advances of the marquis with a heart cured of its coldness, which was about to degenerate into aversion; and they were for some time mutually happy.

The abbé was not willing the marchioness should be ignorant to whom she was indebted for this happy change of her condition. He communicated to her in confidence, that it was he had turned the heart of the marquis in her favour; and was at great pains to make her sensible that he had the absolute command of him, and was the source of the happiness she now enjoyed.

The marchioness at first sight conceived an aversion to the abbé. She was uneasy to think she should be under so great an obligation to a man who, she dreaded, might make a wrong use of it; however, she signified to him, that she was sensible of the pleasure he had done her, but in so cold a manner, that her air seemed to give her words the lie. He was mortified to find her heart so little touched with these impressions of gratitude, which

he thought such a favour would have produced ; but as he had a considerable share of vanity, he flattered himself to be able by assiduity to gain upon her affections in time. But finding the marchioness still carry herself towards him with indifference, and shew him only outside civilities, he resolved to open his mind to her more fully.

Having notice that she was gone to the country seat of a certain lady of her acquaintance, he set out after her. As he was a man of most agreeable conversation, and the soul of every company where he came, he was well received by all ; and he shone in his usual way, by the many resources he had from wit and genius.

In all the various subjects of conversation that were introduced, his passion prompted him to display all the talents he was master of, and make the most of them. The day after his arrival, there was proposed a hunting match, and the ladies to be of the party ; the abbé offered to be the marchioness's squire, hoping by that means to have an opportunity to disclose his mind to her freely, and without interruption. Accordingly when they were in the fields, at a proper distance from the rest of the company, he began to open his mind to her, without that air of timidity which love usually begets ; he made her a blunt declaration of his passion, representing himself in the warmest expressions, as the most amorous man alive. He was too much transported to leave room for the marchioness to doubt his being in earnest. She presently changed colour, and appeared in the utmost degree of surprise ; yet she thought it prudent to conceal her anger, and put on a cold forbidding air, as if she had not deemed him worthy her resentment.

" Master Abbé," said she to him, " you know how a woman, in my situation, ought to receive such a compliment ; pray ask your own heart what answer I ought to make you, and save me that unnecessary trouble." Though these words of themselves implied no great degree of contempt, yet the air which accompanied them breathed it in the strongest manner. They entered deep into the heart of the abbé, and stung him to the quick ; however, he soon recovered himself out of his confusion, and altering his tone of voice, thus replied with abundance of assurance : " Do you know, Madam, that your happiness

is in my hands, and that whenever I please I can make you the most wretched woman upon earth? It will be an easy matter for me to undo all that I have done; nor have I any apprehension that it is in your power to prevent me, because I am well assured that whatever you may say, whatever expedients you may use, you will not be believed. Therefore, Madam, for the sake of our mutual quiet, let us not take cross measures; do you fall in with my wishes, and you may expect to enjoy smiling and serene days."

The marchioness, without elevating her voice, rejoined with the same coldness as before, "Sir, I would have you learn to esteem me, if you have learned to love me; and know, that the terror of enduring the most unhappy destiny in this world, shall never make me do any thing in prejudice of my virtue." To gratify her aversion, and punish the vanity of the abbé, she added, "Was I capable of such a weakness, you would be the last man for whom I would have the inclination." The abbé could not brook this language, he grew red with anger, and left the marchioness to rejoin the company. During the rest of that day he was in the worst humour imaginable, nor with all the art he was master of, was he able to disguise it. His pride thus baffled and confounded, represented him to himself as the lowest of all mortals. So little was he in his own eyes, that nothing was ever seen so humble. He returned abruptly in the evening to Avignon, and left all the world to conclude that he was under some violent discontent.

When he was alone he renewed his courage and hopes, still flattering himself to be able to vanquish the marchioness's virtue. Thus not in the least disheartened, he continued to impress the marquis with a high idea of his lady's honour, and fidelity, which he represented as equal to her beauty. The marchioness, in consequence, remained happy, though without any abatement of her aversion to the man who was the author of it; still carefully shunning all opportunities of being with him in private. Meanwhile the chevalier was no less sensible than the abbé of the marchioness's charms. Far from having the same dislike to him as to the abbé, she loved his company, and opened to him the secrets of her heart; not that she had any criminal love for him, but she

could not help being pleased with the sweetness of his manners, and the comparison she made between the two brothers rendered the chevalier the more agreeable in her eyes.

All these civilities from a lady of so much merit and beauty, flushed him with hope. The abbé soon found out the rival in the brother, and observing that while he was shunned, the chevalier had free access to the marchioness, took occasion from thence to conclude that he was the happy object of her affection. He resolved, therefore, to be a spy upon the two lovers; but after all the pains he was at, could perceive nothing to make him suspect the marchioness's virtue.

This rivalry, however, mortified him extremely. He long deliberated with himself how he should behave, and at last determined on the following scheme. Being sensible it was in vain to try his power over the chevalier, and that love was too stubborn to be managed by dint of authority, he talked to him in the following manner: I find we are both in love with the marchioness; let us therefore behave in this affair like brothers. For my part I will by no means stand in the way of your happiness, if you can carry your point, good; if not, I expect you will quit the field, and leave me to try if I can be more successful; we understand one another too well to quarrel on her account. This expedient he thought fit to take, only because having failed himself, he was willing to have the experiment made, whether the marchioness was susceptible of any impression, or if her virtue was not quite impregnable. The chevalier was touched with the abbé's generosity, and declared that he was ready to make a sacrifice to him of his passion. No, says the other, I shall be overjoyed to see you happy; being so far master of my inclinations, as to suffer nothing to come in competition with friendship. Upon which they embraced each other.

The chevalier thus disengaged from his rival brother, renewed his civilities to the marchioness, who received them so long as she thought love had no share therein; but she no sooner perceived passion to be concerned, than she treated the chevalier with the same indifference as she had done his brother. He never dared directly explain his sentiments to her, but contented himself by

zeal and officious assiduity, to shew very glaring signs of love. She affected to take no notice of it; and after a very long course of obsequious attendance, he was no farther advanced than the first day. Not to leave him the smallest glimpse of hope, she even shewed him signs of contempt, though in that she deviated from her known character; and as the chevalier happened now and then to blunder in his expressions, she would take occasion to sneer at him, though she had no turn for raillery, and was more apt at other times to palliate such faults than censure or ridicule them.

The chevalier despairing of success in his amour, resolved to conquer his passion, and spoke of it to the abbé, who encouraged him in his resolution. From thence he was naturally led on to utter some sentiments of disgust against the marchioness, and appeared disposed to rank himself among her enemies. The abbé then re-entered the lists; and finding he was not able to recommend himself to the marchioness, by re-instating her in her former good fortune, he thought it high time to change his conduct, and practise upon the distempered mind of the marquis, who seeing only with the abbé's eyes, had taken no notice of the chevalier, in his assiduous visits to his lady, and imputed those of the abbé to an honest design of observing her behaviour. He began now to poison his soul with direct insinuations to the marchioness's dishonour. Hitherto, he said, he had depended upon her virtue, but that a late discovery had opened his eyes. He then proceeded to relate to him a story to which she had given rise, by allowing a young gentleman to toy with her in a company which she frequented. He let fall his whole venom upon this innocent freedom in which she had indulged, and so perverted the mind of the husband, that his passion entirely got the better of his reason. He even went so far as to revile and abuse her, without so much as allowing her a hearing. The abbé took care to blow the coal, and added fuel to this fire of jealousy, which grew every day into a fiercer flame. He forgot himself so far as to insult the marchioness; and when he had infused into the husband's mind all the spiteful suggestions against her his malice could invent, he gloried in his successful villainy, triumphed in the hellish revenge he had taken on

an innocent lady, who had made him her enemy only because she had too much virtue to yield to his criminal solicitations. She gave herself no trouble to undeceive the marquis with respect to the conduct of the abbé, because she knew she would not have been heard.

After having raised this storm, he resolved to renew his attacks upon the injured lady, and to try if he might not yet hope to gain her over. However careful she was to shun him, he watched an opportunity of finding her alone, and as she was taking a turn in the garden, obtruded himself upon her with all the assurance imaginable. "Why, Madam," says he, bluntly accosting her, "shall you and I be always thus at odds? Will you oblige me still to make war upon you? Will you never be convinced that it is for your interest that we be friends? And while it is so easy for you to gain me, and to re-instate yourself in your husband's affections, will you be thus resolute in persecuting me?" She heard him out with perfect composure of mind, and immediately turned her back upon him, treating him with that disdain he so justly deserved.

Much about this time happened the death of the *Sieur de Nocheres*, to whom she was heiress. The plentiful fortune which he left was the reason that the marquis could not go so often to Gange as he was wont to do. He went to Avignon to settle his affairs, and carried the marchioness with him.

Here an attempt was made to poison her, by presenting her with a dish of cream mixed with arsenic; but as the quantity was but small, and given in an aliment which serves for an antidote against that poison, its effects proved not fatal, though she suffered considerable pain. All those who ate with her were affected in the same manner. She then called to mind her horoscope which had been cast for her at Paris, where an astrologer, who was reputed a man of skill, if there can be any skill in so vain a science, foretold her that she would die a violent death.

The adventure of the poisoned cream made a considerable noise at Avignon; but after a while, according to the fate of such stories, it was entirely hushed, and no more heard of. The marchioness, whom it so nearly concerned, was one of those who spoke of it with the

greatest coldness and indifference. Her succession to the *Sieur de Nocheres's* estate happened seasonably for her relief; it gained her esteem from her lord, the abbé paid her more regard, and advised the marquis to do the same; as for the chevalier, who was born to imitate others, he followed the example of his leader.

The marchioness did not suffer herself to be deluded by these fair appearances; she still saw the hearts of her enemies to be the same, and that their change of behaviour was only owing to her change of fortune. She therefore thought fit not to alter her conduct with regard to them.

It was proposed after this, that they should go to Gange to pass the autumn. This place was at the distance of seven leagues from Montpellier, and nineteen from Avignon. The marchioness, who from a secret presage, whereof she could give no account, dreaded residing at that castle, formed a resolution to make her will before she set out. This design she put in execution, constituting her mother her heiress, leaving it in her option to settle the succession either upon the son of the testatrix, who was six years old, or upon the daughter, who was five.

Though this will was secret, she made an authentic confirmation of it in the presence of the magistrates of Avignon, and several persons of quality; before whom she declared, that in case she should make any other testament posterior to this, she formally disavowed it, and insisted that this alone should stand good; which she expressed in the strongest and most emphatic terms. From this we may easily conceive how highly she must have been incensed against her husband, and that the particular distrust she had of the perfidious abbé had contributed not a little to make her take this hasty step.

Before her departure she likewise distributed among several friars, mostly recollects, a score of pistoles, in order to their saying mass, that she might not die without the sacraments of the church; and when she charged them to pray to God for her, she did it with so much earnestness, that it looked as if she had a near prospect of her end.

When she took her leave of her friends, she spoke to them with such tenderness, and was so melted into tears,

that it had all the air of a last adieu. All were deeply affected with the parting; to those especially who were related to her by the ties of friendship, it bore a rueful aspect.

The marchioness being arrived at her husband's seat, was received by Madam de Gange, her mother-in-law, with great demonstrations of friendship. This lady lived mostly at Montpellier, and was come to Gange only to pay a visit to her son; she was a woman of singular merit. The marquis himself, and both the brothers, contributed their utmost to give the marchioness an agreeable reception; they seemed to outvie each other in their endeavours to wear off the uneasy impressions which she had received; whenever they addressed her, it was in the most insinuating terms of friendship, with the most inviting marks of courtesy; they were no more the same persons, so much were their former manners transformed into the most obliging, complaisant deportment. The abbé and chevalier presented themselves no more to her under the guise of lovers—they were but too sensible how odious they were to her in that character. They had now recourse to artifice, and acted the part of vile dissembled respect, with so much address, as to impose upon the undesigning marchioness, whose mouth always spoke the language of her heart. She was so far trepanned by these fair appearances, as to believe she was about to enjoy not only a state of easy quiet, but even of high delight and satisfaction. But the scenes were soon shifted; her mother-in-law returned to Montpellier, and the Marquis being gone to Avignon about business, she was left alone in the hands of the brothers, who, whatever disguises they put on, were her implacable enemies at heart, and only watched an opportunity to wreak their revenge upon her, for not entertaining their criminal passion. There is ground to believe that the marquis, before his departure, held a consultation with his brothers, wherein were formed those terrible resolutions that ushered in the following most tragical catastrophe. In all the steps of this complicated villainy the two brothers acted in concert, but the abbé still led the way, and gloried in outdoing the chevalier.

The marchioness, whatever diffidence she ought to

have entertained of these two hypocrites, saw them act the farce so long, till she thought it natural, suffered herself to be won by these advances of civility, and came at length to believe that sincerity was at the bottom. When they found their insinuating manners had succeeded, the abbé then artfully began to bring into conversation the testament which the marchioness had made, and which he had heard of, giving her to understand, that while it subsisted, the union between her and her husband could never be firmly cemented, since he would think she retained against him her old grudge; and therefore, as he designed to live with her in a thorough good understanding, it was necessary to remove that obstacle, which was so great a bar to their mutual felicity, and upon her making this sacrifice, she would see her husband and his relations all conspire to make her happy, and establish her in absolute sway over all the hearts of the family. So efficacious were his persuasions, that the lady, whose predominant quality was good nature, revoked her testament, and made another in favour of her husband. The abbé undoubtedly thought it not necessary for the validity of this last testament, that she should retract the declaration she had made before the magistrates of Avignon, else he would have required this of her; he thought the forms in law were fully answered, and that he had now accomplished the design of his dissimulation. He prepared, therefore, for the horrid tragedy, and addressed the chevalier in such language as was most likely to inflame him to that pitch of barbarity with which he himself was inspired.

The marchioness happening some time after to be out of order, signified her inclination to use some physic, May the 17th, 1667. The physician of the place made up for her a potion, which she was to take that day. When the medicine was brought to her, it looked so black in the glass, and likewise so thick, that she could not think of swallowing it down, and chose rather to use a dose of pills she had in her casket, and to which she was accustomed.

There is all the reason in the world to suspect the two brothers had mingled a dose of poison with the potion. As they knew not at first but she had taken it, they sent twice or thrice that morning to inquire of her health,—

waited with impatience the effects of their baneful medicine, and were not a little astonished to hear the marchioness had no complaints.

At length they were undeceived, and entered into the barbarous resolution, that, however this first attempt had failed, they would consummate their crime, though it should cost them their lives.

The marchioness being advised to keep her bed, invited some ladies of the place to come and bear her company; who accordingly waited upon her after dinner. She entertained them with all the good humour imaginable, and never appeared more cheerful; the abbé and chevalier, who were of the party, discovered great distraction of mind, seemed to be musing on some deep design, and, for a while, bore no share in the conversation. The marchioness rallied them for being so absent; upon which the chevalier, who sat at the foot of the bed, recovered himself a little, and began to retort upon her, while the abbé put in a word now and then to humour the joke.

Their constrained air failed not to be taken notice of by the company, who inferred from it, that they must have somewhat more than ordinary in view. There was a collation served up to the ladies, whereof the marchioness performed all the honours, and eat heartily. The abbé and the chevalier touched none of it. At length the ladies withdrew, and the abbé accompanying them to the gate, while the chevalier remained alone with the marchioness, still absorbed in his former reverie, whereof she could not fathom the reasons. But the mystery, which she was at great pains to unfold, too soon cleared up of itself.

She saw the abbé re-enter her chamber, holding in one hand a pistol, and in the other a glass full of blackish liquor, his eyes inflamed, his physiognomy quite changed, and all his features distorted. He made fast the door, and drawing near her bed, paused a while, darting dreadful looks upon her, as if by that dumb show he meant to damp her soul with the frightful anticipations of death, before he disclosed his purpose.

The chevalier started up at the same time, and presented his naked sword. In these two wretches the marchioness saw a lively image of hell. She imagined, at

first, that the chevalier had drawn his sword only in her aid; but she was soon undeceived by his ferocious aspect.

At length the abbé opened the scene, and said, without greatly elevating his voice, but in a tone firm and resolute, "Madam, you must die; choose you pistol, or sword, or poison?" "Die," cried the marchioness! "why, what crime have I committed? You then, it seems, have the ordering of my death, and are to be my executioner! How have I merited this so violent fate?" Finding that all access to pity was shut against her in the heart of the abbé, she hoped there would be some remains of compassion in the chevalier's breast. To him, therefore, she turned her eyes, and thus bespoke him: "May I not hope, my dearest brother, to soften you to pity in this my extremity; heaven forbid that you too should prove inexorable? Have you the heart to think of being yourself my executioner? Is it thus you forget all the tokens of friendship I have given you? Can your rage against me be so implacable that nothing less will appease you than my blood?" Besides many other marks of friendship, at which she now hinted; she had often lent him money, sometimes even to the pinching of herself, and had lately given him a bill of exchange for 500 livres.

Far, however, from making any impression on the chevalier by this tender expostulation, she read nothing in his looks but menaces of present death. She saw her doom sworn and denounced, even before he spoke his answer, which, to cut off from her the smallest degree of hope, he thus delivered, in the same air and tone which the abbé had assumed: "Madam, 'tis done, take your choice, or if you will not, we will choose for you this instant." Then the marchioness, with an entire command of herself, casting upon them a glance of indignation, and lifting her eyes, as taking God to witness their horrible perfidiousness, reached forth her hand to the glass of poison, which the abbé presented to her, clapping his pistol at the same time to her throat, while the chevalier pointed his sword to her breast. She gulped down the fatal draught, her forehead all drenched in sweat; and letting fall some drops on her bosom, the corrosion was so violent, that in a moment the skin grew

black and livid, and her lips were transformed into the same baleful hue.

The chevalier perceiving that she had left in the bottom of the glass the thickest of the potion, composed of arsenic and sublimate diluted in aqua fortis, scraped together these remains with a silver bodkin, and bringing it to the edge of the glass, gave it the marchioness to drink off. "Come," says he, "Madam, you must swallow down the rest of this holy water." Which she did; then leaning her head to the pillow, and screaming out as in prospect of immediate death, she said, "In the name of God, since you have now glutted your revenge by taking away my life, carry not your barbarity so far as to destroy my soul too; send me a confessor, that I may die as a Christian, and not like one without hope."

Upon this they withdrew, and making fast the door after them, went to the vicar of the place, who had been a domestic of the family twenty-five years since, and desired him to attend the marchioness, who was a dying.

Scarce were they gone, when she attempted to make her escape. As she was in her smock, she flung on a petticoat, and getting to the window which looked to the court-yard of the castle, made an effort to throw herself down from thence the height of twenty-two feet.

The priest just arrived in that very moment. She had taken her measures so ill, that she would have fallen with her head foremost, and in all probability dashed herself in pieces, when the priest catching hold of the end of her petticoat, turned her body in such a proper direction, that she fell right upon her feet, on a hard stony ground, where she received no other damage but to mangle her feet a little, which were uncovered. The weight of her body, which had taken its swing, tore the petticoat which the priest held by the extremity, and left a shred of it in his hand.

The priest, who was devoted to the abbé and chevalier, to prevent her escape, let fall a large pitcher full of water, which stood by the other window adjoining to that through which the marchioness had passed: he had killed her effectually had the pitcher lighted upon her head; but it happened to fall two inches short of her.

As soon as she found herself on the ground, she thrust the end of her hair hastily down her throat a great way,

and provoked herself by that means to vomit ; which she did without any difficulty, because she had eaten a great deal before.

After she had thus eased herself, she bethought her of making her escape. Finding the court-yard shut up on all sides, she went to the quarter of the stables, where she flattered herself she might get out ; but she found these too made fast. Thus all the advantage she had by this elopement was to be confined in a prison larger than her chamber. By good fortune, she spied one of the grooms : “ My friend,” says she to him, “ for God’s sake save my life, I am poisoned ; open to me your stables, that I may go in quest of assistance.” The groom took her in his arms, conveyed her into his stables, and put her into the hands of some women, whom he met by the way.

Mean while the priest was gone to apprize the two inhuman brothers of her escape. They resolved not to leave their work unfinished : while she was running here and there for shelter from her executioners, they ran after her crying out that she was mad, that she was subject to fits of the mother. The populace seeing her in disorder, her hair dishevelled, her feet bare, and almost in her smock, were inclined to believe her case really was what they represented.

At length the chevalier overtook her near the house of the *Sieur des-Prats*, about the distance of 300 paces from the castle : thither he made her enter by force, shutting himself up with her, while the abbé planted himself at the door, with a pistol in his hand, threatening to kill the first who durst approach without leave, for that he would not suffer his sister-in-law to be made a spectacle to all the world. His true design, however, was to prevent any body from giving her aid, that the poison might have time to work its effect.

The *Sieur des-Prats* himself was abroad, but they found his wife at home, in company with several young ladies. One Mrs. Brunel, wife to the minister of the place, who was of the number, found a way imperceptibly to convey to the marchioness a large box of *Orvietan*, whereof she took some doses, while the chevalier, who was walking up and down as her guard, had his back turned. Another of the ladies gave her a large glass of water, which she was going to drink off with

great eagerness, to quench the fire which the poison had kindled in her bowels ; but the chevalier, still firm in the cause of inhumanity, withheld from her this relief, by breaking the glass between the marchioness's teeth, and told the ladies they would mightily oblige him, if they would not be witnesses to his sister's disorder, nor encourage her in her whimsies ; that he was there to take care of her, and would not leave her till he saw her better, wherefore he begged they would retire and leave her entirely to his management.

The marchioness thought she would try once more to soften the chevalier ; and desired the ladies to leave them together, that she might have more freedom to deal with him effectually. Upon this they withdrew into another room.

Then the marchioness, all in tears, threw herself at the chevalier's feet : " My dear brother," says she to him, " will you not recal my sentence of death ? is there no possibility of exciting in you some sentiments of pity ? Do but regard me in the quality of one who comes to you unknown, to implore your aid ; sure you will not withhold from a sister those sentiments of humanity you would not deny to a stranger. Here I swear to you by all that is most sacred, that I will henceforth cancel all remembrance of your past behaviour, and will do all in my power to give it a favourable construction in the eyes of the world. Had I done you the smallest injury, I could have submitted to the most cruel punishment you was capable to inflict. But now that I am conscious I never injured you in the least, let me conjure you, my dearest brother, in the name of God, to grant me this one, this last request, to leave me at the gates of death, and while I have still as much breath remaining as to beg for mercy, oh, grant it for heaven's sake."

This prayer was thrown away upon the chevalier, and rather served to inflame his cruelty the more. He took his sword, which was a short one, and used it as a poniard, giving the marchioness two stabs with it in the breast. Whereupon she, flying to the door, cried out for help ; while he, pursuing, gave her five more stabs in the back, and the weapon breaking short, he left the piece sticking in her shoulder.

The chevalier, after this shocking barbarity, went out to the Abbé, who was watching at the gate, with these words: "Abbé, let us away; the business is done." The ladies immediately entered the room in the utmost consternation to see the marchioness extended on the ground, and swimming in her blood. From her quickness of breathing, they concluded she was in the agonies of death, and were enraged at themselves beyond measure for not having prevented this sad disaster.

They imagined, however, there was some possibility of her recovery, and begged from the windows, that a surgeon might be called.

Upon hearing this, the Abbé apprehending the marchioness might still live, came to give her the finishing blow. He advanced towards her, and presented his pistol to her breast: the weapon misgave, and Mrs. Brunel turned it aside, by laying hold on the Abbé's arm, who seeing himself crossed in his design, turned short on that lady, and gave her a blow with his fist on the head, and using his pistol as a club, was going to dispatch the marchioness outright, when all the ladies fell upon him like so many lionesses, and thrust him headlong into the street.

They returned to look after the marchioness: one of them who had some skill in surgery, staunched the wounds, after having wrenched out the stump of the sword, encouraged by the patient, who bade her not be afraid of hurting her, but lean her knee against the wounded shoulder, to give her the more force. They applied the first dressings to her wounds, which were not judged mortal; the chevalier, in his disorder, not having aimed his stabs at those parts, where was most danger. After having perpetrated their crime, he and the Abbé took the advantage of the night to make their escape, it being then past nine in the evening. They arrived at Auberas, a manor belonging to the marquis, about the distance of three miles from Gange.

There they rested themselves awhile; reproaching each other bitterly, for not having consummated their wicked deed. They had some thoughts of returning to finish their sacrifice; but were deterred by reflecting on the danger they must run, by putting this design in execution, since they foresaw it would have been impos-

sible for them to save themselves from being arrested. They resolved therefore to take no further thought but how to escape the punishment they deserved.

The consuls of Gange, hearing of what had happened, came instantly to offer their service to the marchioness, which she gladly accepted; they planted a guard round the house of the *Sieur des-Prats*.

Baron du Tressan, the Grand Provost, went in close pursuit of the two assassins, but they had taken ship near Agde, towards that quarter which is called *le Gras de Pataval*. We shall see what became of them afterwards.

Physicians and surgeons were sent for from Montpellier, to attend the marchioness, who had all necessary assistance. As for the marquis, he was at Avignon when they brought him the news of his wife's assassination. He did not expect to hear of this bloody catastrophe being brought about with such terrible and alarming circumstances. Though there is ground to believe that he had concerted her ruin in conjunction with his brothers, yet he had doubtless reckoned upon their effecting it by the silent method of poison. But hearing how it was, he expressed the utmost horror of the action, and broke forth into imprecations against his brothers. He swore they should have no executioner but himself. This, at least, was behaving in such manner as he ought to have done.

It was observed, however, that he deferred his journey to Gange till the day following, after dinner; though, had he been innocent, he could not have been too quick in flying to his lady's aid. Besides, he saw some of his friends at Avignon; and, what is pretty singular, mentioned not a syllable to them of that fatal accident.

Upon his arrival at Gange, he desired to see his lady; of which a friar informed the marchioness. She received him with all the demonstrations of tenderness, that the best of husbands could have expected; only had some kind expostulations with him, upon his seeming to have abandoned her.

Such a reception, supposing him guilty, as there is but too much ground to believe, according to the striking evidences that were laid before the parliament of Tou-

louse, must have been one of the severest punishments he could have suffered.

The marchioness was so delicate, that upon reflecting that she had used terms rather too harsh, in upbraiding him for leaving her to the mercy of her deplorable destiny, she frankly asked his pardon, and reached forth her hand to him in the tenderest manner; telling him that he ought to impute those hasty words to the excess of her illness, rather than to her being wanting in esteem for him.

The marquis had the assurance to take advantage of this excess of conjugal affection in his spouse, and to demand of her the revoking of that declaration, whereby she had confirmed her first will at Avignon, because on account of it, the vice-legate had refused, at the marquis's request, to register the will she had made at Gange.

But to this she replied with great firmness of mind, that she was resolved not to meddle with her will at Avignon. It was a high instance of imprudence in the marquis, to call it no worse, to open afresh those wounds which the assassins had given the marchioness by extorting from her that will at Gange; it inflamed suspicions against him, which were already but too strong. And we have reason to believe, that the marchioness then began to open her eyes, though she took no notice thereof to him, her piety not allowing her to act unsuitably to her usual character of good nature.

The marquis introduced no more conversation on that head for the future, and continued his assiduous attendance on the marchioness, who was still in the *Sieur des Prat's* house. She was very solicitous to be removed to Montpellier, where she might be in the way of proper medicines and advice; but her physician told her it was impracticable to remove her thither, in the situation she was in, without imminent hazard of her life.

Madam de Rossan, the marchioness's mother, accompanied by some persons of distinction in Avignon, came to visit the marchioness the day after her husband's arrival. She was in the utmost surprize to find him with her daughter, and to see them in so good understanding. Being fully persuaded that he was the ring-leader of the detestable plot, she could not bear the

thoughts of his being near the marchioness; she stormed with indignation, and notwithstanding all the entreaty of her daughter, could not be prevailed upon to stay with her above three days, not being able to overcome the violent conflicts, which the sight of him raised in her breast.

The marchioness expressed her desire to partake of the sacraments of the church; having first declared that she heartily forgave her assassins, and made a sacrifice to religion of all revengeful sentiments. But how great was her astonishment, to see the same priest, whom her murderers had sent to assist her at death, present himself to her with the holy viaticum in his hand! She desired he would participate of the host with her; lest, under the veil of that mystery, deadly poison had been concealed. To satisfy her, the priest communicated with her on the half of the host which he gave her.

Then in the presence of that God, who was exhibited in the symbols of the sacrament, she once more protested her hearty forgiveness of all her enemies in general, and of her assassins in particular; calling God to witness the sincerity of her heart.

The parliament of Toulouse appointed M. de Catalan, counsellor of that parliament, their commissioner to repair to Gange, and interrogate the marchioness. Upon his arrival, he was told she was inclined to sleep, so that he could not see her that day. He saw her the day after, and made all the company withdraw, that he might confer with her more freely. He was at great pains to make her sensible, that it was fully consistent with Christian forgiveness, to inform against the authors of so horrid a crime, on whom justice called for vengeance. She signified to him how much it was contrary to her inclination to be at Gange, where so many occasions of terror presented themselves to her mind, which made her long to be removed elsewhere. Though she had nothing else to affect her, but the image of the cruelties she had suffered in that place, this alone was sufficient to strike her imagination continually. M. de Catalan told her, she should be gratified in that article, as soon as her health would permit.

After this her distemper increased, she passed the night in racking pains. The next day, being May 5,

about four o'clock in the evening she expired, amidst a circle of by-standers all dissolved in tears; on many of whom the mournful spectacle made so deep an impression, that they afterwards lamented her death with as lively expressions of sorrow as at first.

Immediately after her death, M. de Catalan having issued out a warrant for seizing the Marquis de Gange, he was arrested in his castle. He said he was ready to obey, that he was designed to prosecute before the parliament the murderers of his wife. His effects were sealed up by authority, and he himself conducted to the prison of Montpellier, where he arrived at night. The whole inhabitants of the city came crowding to the windows, which were greatly illuminated, to gaze upon such an infamous monster, and he was exposed to all the hootings and hallooings of the populace, who looked upon him with horror and detestation.

His wife's body was opened, and it was found that she had not died of her wounds, but of the poison, which had burnt up her entrails, and blackened her brain. She must have been of a very strong constitution, to be able to hold out against a violent poison for no less than nineteen days. Nature in giving her beauty, had at the same time given her a body fitted to preserve it long, as if she had designed her to subsist for many years upon earth a spectacle of her curious skill. It was hoped for some time she would have recovered; in regard that she never appeared more charming than the very day on which she died, her eyes never sparkled with greater lustre, her complexion never showed more lively, nor her speech more firm; but these were only the flashes of a taper, collecting all its force, when it was just about to expire.

The Lady Rossan entered on the possession of her daughter's estate. She declared her intention to prosecute the marquis with the utmost vigour, till the death of her daughter should be revenged: all her words breathed nothing but resentment.

M. Catalan interrogated the marquis twice, and the second time detained him in the examination for eleven hours together. He was conducted to the prison of the parliament of Toulouse, and an indictment drawn up against him with great care and exactness.

The public cry was loudly raised against the marquis:

his case, short as it was, furnished the judges with much subject of reflection.

But, as they were inwardly persuaded of his guilt, and yet did not think there was a sufficient degree of evidence to convict him, and therefore durst not condemn him to capital punishment, they pronounced sentence, August 21, 1667, "condemning the abbé and chevalier, for the aforesaid crime, to be broke alive upon the wheel when found; the marquis to perpetual banishment, with the forfeiture of his nobility, and confiscation of goods to the king; and the priest Perrette, after being degraded by ecclesiastic power, to the galleys for life." Perrette was fastened to the chain but died by the way. All the ladies murmured aloud against the judges, for condemning the marquis to a punishment, which to them appeared too gentle. This murmuring was, perhaps, the reason that the marquis de la Douze, who was accused some time after of poisoning his wife, was condemned to capital punishment: although there were only strong presumptions against him, as against the marquis.

The marquis and chevalier repaired to Venice: they demanded of the republic to serve against the Turks at Candia, the capital of an island in the Archipelago, to which it gives name. It was besieged by the Turks for two and twenty years. Their service was accordingly accepted of, and they were sent over to that island, where they signalized themselves greatly. Some time after, the chevalier was killed by the bursting of a bomb; and the marquis survived him but a few days, being buried in a mine, which was sprung under him in one of the out-works of the place.

As to the Abbé de Gange, he fled over to Holland, to the Count de Lippa, sovereign of Viane, a district two leagues distant from Utrecht. He was acquainted there with a gentleman, a friend of the count, who introduced him to that lord, as a French gentleman of distinguished merit. He changed his name, and embraced the protestant religion.

The count finding him, upon conversation, to be a very knowing man, and well versed in the belles-lettres, and the polite arts, committed to him the education of his eldest son, then about nine or ten years old. By the sentiments which he instilled into his pupil, and the care he took of his improvement, he made him an ac-

complished prince. By this means he gained the esteem of the count and countess, and of that prince's whole family; he carefully concealed his birth, and to avoid curious inquiries, suffered himself to pass for a person of obscure parentage. He had, however, a constant source of disquietude, which gnawed upon him within. Some French refugees, who wanted to settle at Viane, and there build houses, asked permission of the *Sieur de la Fare*, chief justice of the place, who goes by the name of the *Drossard*. He told them they must apply to the count, and that it would be no loss to them, if they had the *Sieur de la Martelliere's* interest with that lord; this was the name the *Abbé de Gange* had had taken. But this new protestant, fearing least he should be discovered, if the French settled at Viane, dissuaded the count from granting the petition of the Refugees; his credit with the count and countess being arrived to such a height, that they took no step, without first consulting him. Here he fell in love with a very agreeable young lady, a relation of the countess. By his artful address, he soon kindled in the lady a mutual flame, and aspired to marry her. The countess, whatever esteem she had for the *Sieur de la Martelliere*, could by no means approve of this match; and told the young lady, she never would suffer it. The *Sieur de la Martelliere*, says she to her, is a very worthy man, but he is a kind of *Melchisedech*. For as long as he has been with us, we have not been able to discover who or what he is, and we cannot but suspect him of mean birth, since, being of a nation which stands not much upon hyperboles, he never yet durst call himself a gentleman; his manners, it is true, are noble, his sentiments polite, and becoming a gentleman, but all this ought not to induce you to disparage yourself, by a match so much below you; when he goes from us, he shall have a recompence proportioned to his services, but we will never interest the honour of the family in his favour. To this remonstrance the young lady durst make no reply, yet she persisted in her resolution to wed the *Sieur de la Martilliere*. She repeated to him this conversation. Upon which, after some deliberation, he was infatuated by his passion to take a most foolish measure, for a man of parts. He flattered himself, that by discovering his parentage, he would bring the match to bear, and that

the esteem he had acquired in the family, would counterbalance the horror, which the knowledge of his former crime might inspire. In this confidence, he demanded an audience of the countess, and was no sooner alone with her in her closet, than he fell upon his knees before her: Madam, said he, I flattered myself, hitherto, that your highness would honour me with your good-will, nevertheless it is you who this day stand in the way of my happiness. Miss——honours me with her esteem: wherein, madam, have I offended you, or what can be laid to my charge for these several years since I have had the honour to be in your service? She replied, my spouse and I are very well satisfied with you; be but so just to yourself, as to confine your ambition within due bounds, forget not yourself so far as to pretend to a match, to which we could not consent, and you shall have no reason to complain of our ingratitude. Hitherto we have not been able to find out your parentage, and what can we infer from your concealing it so industriously, but that it is so obscure, that you are ashamed to own it? upon this the *Sieur Martelliere* rejoined; “madam, could I make myself known to your highness, without incurring your displeasure, you would soon see I am not unworthy the honour to which I aspire on the score of my birth. Yes, madam, you will be convinced of it, when you hear I am the unfortunate *Abbé de Gange*, whose notorious crime makes him but too well known. Rigid is the penance I have undergone, and since I had the honour to be in your service, I have proved by my conduct, how opposite my sentiments are to that horrid action, at which I shudder as often as I think of it.” “What!” cried the countess, “are you that abominable *Abbé de Gange*, whom I have heard of with so much abhorrence? O heavens! what a monster have I been harbouring in my house! whom have we entrusted with the education of our son? I tremble to think what barbarous hands he has been in.” The count de la Lippa had the same sentiments, when let into the secret, and was just upon the point of ordering him to be laid under an arrest; but suspended his angry purpose, at the solicitations of his son. The *Sieur de la Martelliere* was obliged to quit *Viane* in all haste; a strict charge being given him, never more to appear in sight of the count and countess. The lady was in agony every time she

reflected on the risque she believed she had run. The young count, however, had learned nothing from his governor, but the purest morals, and he saw them confirmed by the example of his teacher. From hence the unhappy *Sieur de la Martelliere* retired to Amsterdam, where he became master of the languages; thither his mistress went after him, and they were secretly married. The young count had the generosity to remit supplies of money to his tutor, which enabled him to subsist, till such time as he came to the possession of an estate by his wife. His good behaviour procured him admittance into the protestant consistory, and he died among them some time after, in good repute.

ROBERT HAWKINS, CLERK, OF CHILTON,
IN THE COUNTY OF BUCKS,

FOR FELONY, AT THE ASSIZES, AT AILESBUURY,

BEFORE THE LORD CHIEF BARON HALES,

MARCH 11th, 1668.

THE indictment sets forth.—

“That Robert Hawkins late of Chilton, in the county of Bucks, clerk, upon the 18th of September, in the twentieth year of King Charles II., with force and arms, &c. at Chilton aforesaid, in the county aforesaid, into the dwelling-house of one Henry Larrimore, feloniously did enter, and two gold rings of the value of ten shillings each, one white holland apron of the value of one shilling and sixpence, two pieces of gold, each of them of the value of ten shillings, and nineteen shillings in silver of the goods and chattels of the said Henry Larrimore, then and there being found, did feloniously steal, take and carry away, against the king's peace, his crown and dignity, &c.

To which indictment Mr. Hawkins pleaded not guilty.

Then the jurors were called, and the prisoner having challenged two, and the prosecutor one for the king; twelve were sworn.

After proclamation made for evidence as usual, and the jury being charged with the prisoner, the witnesses were called; and first Henry Larrimore, the prosecutor.

Larrimore deposed, that on Friday, September 18th, 1668, between twelve and one o'clock at noon he locked up his doors, and went into a hemp-plat, about two furlongs from his house, with all

his family, to pull hemp ; that coming home an hour and a-half before sun set, he found his doors open, and ran up stairs to a loft over the chamber where he lay, and looking through the chinks of the boards, there he saw the prisoner, Mr. Hawkins, rifling a box, in which among other goods, was a white holland apron, and a purse, in which were two gold rings of the value of ten shillings each, two ten shilling pieces of gold, and nineteen shillings in silver ; all which he saw the prisoner turn out of this purse, (which the witness shewed in court) except a small piece of silver or two ; and that he carried away the said rings and money with the holland apron ; that the prisoner hearing some noise, the deponent saw him glance by the stair-foot door, and so run out of his house, down the yard, with a great bunch of keys ; and the deponent saw the prisoner hide himself in a close where there were some beans and weeds. That the next day being Saturday the 19th, he procured a warrant from Sir Richard Piggot, to search for his rings and money, and with the constable of the place, and some others, he went to search the prisoner's house, who refusing to open his doors, the constable broke them open, and in a basket filled with paper, rags, and other trumpery, he found one of the rings, and a five shilling piece of silver, which he positively swore were the same which he had seen the prisoner the day before take out of his purse.

Lord Chief Baron.—Was your chamber door, where the box stood, locked at that time ?

Lar. I cannot certainly tell, my Lord.

L. C. B.—Was the box locked then ?

Lar.—It was locked.

L. C. B.—Were the locks of the doors and box broken ?

Lar.—I cannot certainly tell ; but I believe they were picked open with a picklock.

Hawkins.—Why did not Larrimore, when he saw his doors open, which he expected to have found locked, call some of his neighbours to assist in searching the house, and securing me, or the person whoever it were, that he found robbing of him ?

To this Larrimore answered, he did not then well consider what he did.

Hawkins.—If he saw me commit the robbery in his house, why then did he search other houses for the goods he saw me steal !

Lar.—I had been robbed at several other times.

Hawkins.—How came he not to charge me positively with the felony before Sir Richard Piggot, of whom he had the warrant, if he had been sure I robbed him ?

To this Larrimore made no direct answer.

Then Henry Larrimore the son was called, and the

prisoner objected to his testimony, that he had not been baptized ; but the court told him, that he might be a witness notwithstanding.

Larrimore the son deposed, that on the 18th of September, coming home a little after his father, he saw the prisoner run out of the house down his father's yard, with a great bunch of keys in his hand, and that he hid himself in a close of beans and weeds ; and that when the deponent came into the house, he asked his father if Mr. Hawkins had been there, and his father answered, he had done too much there, for he had robbed him.

Hawkins.—Did your father say no more to you ? did not he enquire which way I ran ?

Lar. jun.—He said no more, but that you had robbed him.

Joan Beamsley was sworn.

She deposed, that on the 18th of September, about an hour and a half before sunset, she met Harry Larrimore the younger, and having the tooth-ache, asked him for some strong water ; and he told her he would give her some if she would go with him to his father's ; and as they were going together, they saw the prisoner run out of Larrimore's house with a bunch of keys, and that he hid himself in a close of beans ; and that she heard Larrimore tell his son, the prisoner had robbed him.

L. C. B.—Here is evidence enough to hang twenty men.

Hawk.—I doubt not but to clear myself, notwithstanding this evidence.

Richard Maine the constable, sworn.

He deposed, that on Saturday, the 19th of September last, Henry Larrimore the elder, brought him a warrant from Sir Richard Piggot, to search Mr. Hawkins's house, for money and goods the said Larrimore had lost ; and that the deponent took along with him Thomas Beamsley the tything-man, and some others to assist him ; and that when they came to Hawkins's, the prisoner's house, he refused to open his doors, and they broke them open, and went into the house, and Larrimore the elder found in a basket, the gold ring and five shilling piece, the prisoner being by when he found them ; and that thereupon he had Mr. Hawkins before Sir John Croke, who committed him to prison, and on Sunday morning, the deponent carried him to Ailesbury.

Dodsworth Croke, Esq., Thomas Beamsley and Larrimore the younger deposed to the same effect, and confirmed the constable's testimony.

Hawkins.—Mr. Maine, did Larrimore desire you to search my house alone, and tell you that he saw me rob him the day before ?

Maine, the constable.—He desired me to search several houses, and did not tell me that he saw you rob him.

Hawkins.—Was it Larrimore himself that found the ring and five shilling piece?

Constable.—It was Larrimore the elder that found them.

Hawkins.—Was I in the same room when he found them?

Constable.—Yes.—But Mr. Charles Wilcox and Nicholas Faulkner deposed, that they were with the prisoner in the hall, while Larrimore pretended to find them in the buttery; and they also deposed, that the constable forced the prisoner to go before Sir John Croke.

Hawkins.—Why did you advise the jailor to load me with irons?

Constable.—I did not advise the jailor to do so.—But the jailor deposed, that the constable told him the prisoner was a notorious picklock, and therefore advised him to watch him narrowly, and load him well with irons.

Hawkins.—Pray, Sir Richard Piggot, when Larrimore came for the warrant to search, did he not say he suspected several persons for robbing him of them, and that I was but one of the suspected persons?

Sir Richard Piggot being upon the bench, acknowledged this to be true.

Hawkins.—And yet Larrimore swears he saw me steal them out of his house the 18th of September, an hour and half before sunset, which I desire the court and the jury would take notice of.

Margaret Larrimore, the wife of Henry Larrimore, was sworn.

She deposed, that when she was servant to her husband, she had seen the prisoner in the night time lurking about his house, and she believed he lay there for no good intent.

Hawkins.—How long may this be since?

Marg. Lar.—It might be about the time my master was robbed.

Hawkins.—Did you speak or call to me when you saw me there?

Marg. Lar.—No; for I was frightened.

Richard Mantill, son-in-law to Larrimore, and his

son William, deposed to the same effect as the wife had done

Dodsworth Croke, Esq. was sworn.

He deposed, that he was confident the ring produced in court was Larrimore's ring, for that the deponent had pawned it to him.

Mr. Goad was sworn.

He deposed, that at the last Buckingham Sessions he pawned a five-shilling piece to Larrimore, for other money, and desired Larrimore to let him have the same again, and that thereupon Larrimore put a mark upon it, and the deponent verily believed it was the same that was produced in court, and found in the prisoner's house; and Larrimore affirmed it was the same piece that was pawned to him by Mr. Goad.

Hawkins.—I desire the jury will observe, that that sessions was held July 9, 1668, and the difference between me and Larrimore for tithes began at Michaelmas 1667; and Larrimore told his brother Beamsley that he had lost this ring and five-shilling piece before the difference began; all which is impossible to be true.

John Chilton was called.

He deposed, That Mr. Hawkins brought him a pair of boots to put new legs to them, and that the deponent told the prisoner he would lay them in his shop window, and he might take them as he came by, for he should be abroad; which accordingly the prisoner did, and paid the deponent for doing them, at Sir John Croke's; but that when the prisoner came to demand his tithes, and sued for them, then this Larrimore, Mr. Dodsworth Croke, Richard Maine the constable, and others, came to the deponent, and plagued him night and day to charge the prisoner with felony, for stealing the boots; and they would have forced him to fetch a warrant to search for them, and threatened, in case he would not, that Sir John Croke would indict him at the assizes, as accessory to the stealing his own goods; and Larrimore said he would make him swear that Mr. Hawkins had stolen his boots, and subpœnaed him to the assizes for that purpose.

Lar.—My lord, this fellow is hired by Mr. Hawkins to swear this.

Chilton.—I am not hired to swear by Mr. Hawkins; but Thomas Croxton told me last Monday, if I would swear Mr. Hawkins stole my boots, he would bear me out against Mr. Hawkins, as far as one hundred pounds would go; and if that would not do, as far as five hundred pounds would go; and if I doubted it, he would give me a bond to make good his promise.

Hawkins.—My lord, this is an easy way for the fanatics to pay their tithes. If they can but hang up the clergy, they may cease their pleas for liberty of conscience. I desire the court and the jury will observe that this Chilton is one of Larrimore's witnesses, and yet

he swears that Croxton and others used their utmost endeavours to persuade him to charge me with felony.

Anne Scoly and John Sanders appeared for the prisoner, and attested the truth of what Chilton had deposed concerning Croxton. On the contrary, Thomas Welch was sworn for the king, and deposed, that he heard Chilton say, that Mr. Hawkins had stolen a pair of boots from him.

Boyce was sworn.

He deposed, that about two years ago he saw the prisoner in the company of one Noble, who was drunk and fallen asleep, and that the prisoner had his hand in his pocket, and that Noble told the deponent, that at that time he lost a gold ring and a piece of gold out of his pocket.

Hawkins.—I desire that Noble may be sworn, if he be here.

Larrimore.—I could not find him.

Hawkins —Mr. Boyce, did Noble ever tell you I had picked his pocket of the said ring, or piece of gold, or any thing else?

Boyce.—No; but he said he lost them at that time.

Hawkins.—If Noble was drunk, as you say, it is possible he might be mistaken; but can you say any thing as to Larrimore's being robbed?

Boyce.—No, not I; but Larrimore subpœnaed me here, and is to bear my charges.

Here Mr. Hawkins observed, that Larrimore had taken great pains to move Chilton to charge him with felony for stealing his own boots, and had rode about the county to procure witnesses against him, who could say nothing to the crime he was charged with, and particularly this Boyce, who had been fetched from London only to blacken him; and he appealed to the court and the jury, if these practices did not discover abundance of malice in the prosecutor; and if that appeared, it would render his evidence to be very much suspected; that this Larrimore was a notorious Anabaptist, and an enemy to the Church of England and ministry in general, but particularly to himself, he having sued him for tithes, and indicted him for not coming to church or baptizing his children; that Larrimore's malice had sufficiently appeared before this, by dissuading those that owed him money from paying him, and persuading others whom he owed money to, to arrest him; by dissuading those he had sued for tithes from agreeing with him, and telling them Sir John Croke would force him to run his country, &c. And if the jury doubted of any of these particulars, he was ready to prove them.

Mr. Hawkins had procured a certificate signed by above a hundred of his neighbours, attesting the truth of what he asserted in his defence at this trial, concerning the conspiracy against his life by the said Larrimore and Sir John Croke; but that was not read at the trial,—possibly because such a certificate is no evidence.

Mr. Hawkins proceeded in his defence, and said, it was very unlikely he should commit a robbery in his own parish in the day time, where every body that saw him must needs know him; and that if he had been conscious of his guilt, he had twenty-four hours time to have

made his escape; and it was strange he could find no other place to conceal this ring and five-shilling piece, but in a little basket that hung up upon a pin; and that if Larrimore had seen him rob him, it was strange he did not tell his neighbours of it, or take any care to secure him till the next day; nor did he declare it to Sir Richard Piggot, from whom he fetched the warrant to search, as might appear by the contents of it.

Hereupon my Lord Chief Baron ordered the constable to produce the warrant; and it being delivered to my lord, he observed, that it bore date before the robbery was committed.

L. C. B.—Larrimore.—Thou art very cunning, to be provided with a warrant a day before you was robbed. It seems you knew upon the 17th day that you should be robbed on the 18th, and that this person now at the bar should rob you. But, Mr. Hawkins, if you were innocent of this robbery, why did you refuse to open your doors, and let your house be searched?

Hawkins.—Most of those persons present were my inveterate enemies. As for Sir John Croke and Larrimore, they had often threatened to pull down my house, and hired people to make a forcible entry upon it; particularly, they hired one Jaires to get down the chimney and open my doors, when we were all abroad; they had also contracted with one Tyler for the same purpose; besides, they had an execution against me, which Larrimore's son had a few days before executed in part, and he was then present: and, my lord, I offered at the same time that Mr. Sanders, the other constable, who lived but at next door, might search as narrowly as he pleased.

John Acreman was called.

He deposed, that being called by Sir John Croke's sons, he assisted in setting up the ladder for Jaires to go up and get down the prisoner's chimney, and that they and Larrimore stood by all the while to watch.

As to the execution Mr. Hawkins mentioned, he called upon the sheriff to attest the truth of it.

And as to the prisoner's offering the other constable to search, Reed, Sanders, and several others, appeared and attested it.

With which evidence the Lord Chief Baron was well satisfied, and said the business appeared very foul; and looking towards Sir John Croke, asked if that were the Sir John Croke who was concerned in that business?

Hawkins.—I doubt not to make appear to the world, that Sir John is deeply concerned in this conspiracy.

Then Mr. Wilcox was called and appeared.

He deposed, that on Friday the 18th of September, 1668, the day the prosecutor pretended the robbery was committed, he was at the prosecutor's house at Chilton, from noon till it was near night, with Larrimore, the prosecutor, and that they were driving a bargain about tiles and other things; and that Mr. Hawkins was not at Larrimore's all that afternoon; nor did the deponent hear then, that Larrimore's house was robbed, which he must needs have done, if he had been robbed that afternoon.

Larrimore.—It was upon Thursday that Mr. Wilcox was at my house.

Sir Richard Piggot.—My Lord, I am sure Larrimore and that fellow the constable, were both at my house on Thursday the 17th of September, as the warrant testifies, and therefore it could not be that day.

L. C. B.—Mr. Wilcox, what time of the day did you come from Larrimore's house?

Wilcox.—I came from thence on Friday about sunset; it was quite dark before I got home, which is about a mile and half from thence, and I made what haste I could.

L. C. B.—Do not you remember Larrimore, he was at your house Friday, September 18, 1668?

Lar.—No, my Lord; sure it was not upon that day I was robbed.

Mr. Brown was called, and appeared.

He said, that Sir John Croke and this Larrimore had threatened, that if he came down to this assizes to testify what he had heard of this conspiracy, they would ruin him and his family, and for that reason he dare not speak; but the court promising him protection he gave this evidence.

Mr. Brown.—Being entrusted by Sir John Lentall, as keeper to Sir John Croke, who is a prisoner in the King's Bench, on Wednesday the 16th of September last, as I was in bed at Sir John Croke's house in Chilton, I heard a great noise; and fearing they were contriving Sir John Croke's escape, I started out of bed in my shirt, and stood at the dining room door behind the hangings; and there I heard this Larrimore tell Sir John Croke, that he had undone him by causing him to contend with the parson; for that he had entered him in the most of the courts of England, and summoned him into the crown-office and chancery, and he could not maintain so many suits. Sir John replied, is that all? come, brother Larrimore, be contented, we will have one trick more for Hawkins yet, which shall do his work. Larrimore answered, you have put me upon too many tricks already, more than I can manage, and the parson is too hard for us still. Sir John replied, if thou wilt but act, I will hatch enough to hang Hawkins; cannot thou convey some gold or silver into his house, and have a warrant ready to search his house? and then our work is done; and, says he, do you but go to Sir John Piggot, and inform him you have lost your money and goods, and desire his warrant to search for them; and take Dick Maine the constable, who is one of us, and will do what we desire him, and search the house, and when you find these things charge him with flat felony, and force him before me, and I will send him to jail without bail, and we will hang him at the next assizes.

And accordingly the Saturday following, being the 19th of Sep-

tember, as I was coming home, I heard Mr. Hawkins had robbed Larrimore, and coming into Sir John's house, I saw a paper lie upon the hall table, full of writing, and Larrimore with the constable and others, brought Mr. Hawkins before Sir John Croke, who took up the said paper, and read to the constable, and said, that it was Mr. Hawkins's mittimus; which mittimus all the company knew was written before Mr. Hawkins was brought before Sir John Croke. On the Sunday morning I went to the ale-house, where they had kept Mr. Hawkins all night, and saw them carrying him to jail. I said to Sir John, when I came home, they have carried the poor parson to jail; and he answered, let him go, and the devil go with him, and more shall follow after. Have I not often told you, says he, if my brother Larrimore and I laid our heads together, no body could stand against us? and I replied, yes, Sir John, I have often heard you say so, but never believed it till now.

L. C. B.—Is all this true, which you have related?

Brown.—Yes, my Lord; and there sits Sir John Croke, (pointing to him) who knows that every word that I have said is true.

Soon after Sir John Croke stole off the bench, without taking leave of the Chief Baron.

Lar.—My Lord, what I have sworn as to Mr. Hawkins is true.

L. C. B.—Larrimore, thou art a very villain; nay, I think thou art a devil.—Gentlemen, where is this Sir John Croke? It was answered, he was gone.

L. C. B.—Gentlemen, I must acquaint you, Sir John Croke sent me this morning two sugar loaves, to excuse his absence yesterday, but I sent them back again; I did not then so well know what he meant by them, as I do now. Sure Sir John does not think the king's justices will take bribes: some body may have used his name, (here the Chief Baron shewed Sir John's letter) is this his hand? Some of the justices on the bench said, they believed it might; and it being compared with the mittimus, the hands appeared to be the same.

L. C. B.—Mr. Hawkins, have you any more to say?

Hawkins.—I hope your Lordship and the jury are fully satisfied of my innocence; but if not, I desire to know wherein I have not given satisfaction.

L. C. B.—You of the jury, what do you think?

Jury.—It is a very plain case, my Lord.

L. C. B.—And I think so too, but it is a very foul one. Then his Lordship proceeded to sum up the evidence, and direct the jury.

His Lordship observed, that the prosecutor, to shew

his pretended moderation, had indicted the prisoner only for felony in stealing his rings and money, but in his evidence had endeavoured to charge him with burglary, swearing that he had broke open or picked the locks of his doors.

That as to the finding the money and rings in a basket in the prisoner's house, Larrimore being the first man that entered the room where the basket was, and the person who took the basket down, it was very easy to suppose, he conveyed those things into it. And that it appeared upon the evidence, and from all the circumstances, to be a most foul and malicious conspiracy against the life of Mr. Hawkins.

Then the jury without stirring from the bar, gave their verdict, that the prisoner was not guilty.

Mr. Hawkins moved, that he might be discharged without paying his fees, for that he was very poor; this and other troubles the prosecutors had brought upon him, having cost him a great deal of money. My Lord Chief Baron answered, he could not help it; he could not give away other people's rights; if they would not remit their fees, he must pay them.

As soon as the trial was over, Sir John Croke, Larrimore, the prosecutor, and their accomplices in the conspiracy, fled privately out of town.

AN ACCOUNT OF THE MURDER OF THE REV. MR. JOHN TALBOT,

28th JULY, 1669.

THIS gentleman had been chaplain to a regiment in Portugal, in the reign of King Charles II., where he continued in the discharge of his office, till the recalling of the said regiment; when arriving in London, he preached three months at St. Alphage in the Wall. Afterwards he was curate at a town called Laindon in Essex, where a law-suit commenced between him and some persons of the said parish, upon the account of which, he came up to London at the unhappy time when a period was put to his life in the following manner.

Several profligate abandoned wretches, to the number of six men and one woman, determined one day to way-

lay, rob, and murder this poor man. Whether hearing his business, they might think he had a pretty deal of money about him; or whether they acted at the instigations of some of Mr. Talbot's enemies, is not certain; however it was, they dodged him from four o'clock in the afternoon, whithersoever he went. The names of some of these miscreants were, Stephen Eaton, a confectioner; George Roades, a broker; Henry Prichard, a tailor; and Sarah Swift.

Mr. Talbot had received information, that his adversaries designed to arrest him, which made him a little circumspect while he was abroad; for every one who took any notice of him, he imagined to be an officer. This occasioned him the sooner to be alarmed when he saw himself followed by five or six people, from place to place; so that turn which way soever he would, he was certain of meeting one or more of them.

After he had shifted about a long time to no purpose, in order to avoid, as he thought, their clapping a writ on his back, he betook himself to Gray's-Inn, whither being still pursued, he had there a good opportunity to take particular and accurate notice of some or all of these evil-disposed persons. Here he took shelter a little while, and wrote letters to some of his acquaintances and friends, requesting them to come and lend him their assistance in order to secure his person.

The persons whom he sent to failing him, he got admittance into the chambers of one of the gentlemen of the place, where he stayed till he supposed all the danger was over; then taking a little refreshment, he took the back way, through Old Street, and so over the fields to Shoreditch.

Not long after he had got into the fields, he perceived the same persons at his heels, who had dogged him before. He was now more surprised than ever, it being eleven o'clock at night. The most probable method of escaping that he could see, was by breaking through a reed-hedge, to a garden-house; but before he could reach the place, one or more of the villians seized him, and began to pick his pockets. They found about twenty shillings, and his knife, with which they attempted to kill him by cutting his throat.

Whether it was by chance, or that these wretches pre-

tended to an extraordinary skill in butchering men, is uncertain; but they first cut out a piece of his throat, about the breadth of a crown piece, without touching the wind-pipe; and then, in the dependant part of the orifice, they stabbed him with the knife so deep, that the point almost reached his lungs. However, they did not cut the recurrent nerves, which would have stopped his speech, nor the jugular veins and arteries, which if they had done, he had instantly bled to death without remedy, and then possibly no discovery had been made.

There was a cut in the collar of his doublet, which seemed to shew that they attempted this piece of butchery before they stripped him; but then the nature of the wound intimated, on the contrary, that they pulled off his coat and doublet before they accomplished their design.

This bloody deed was perpetrated at Anniseed-Clear, on Friday night, the second of July, 1669. While the wretches were committing their butchery, the dogs barked, and the beasts bellowed in an uncommon manner; so that several gardeners rose out of their beds to prepare for the market, supposing it had been day-light, soon after it thundered and rained in a terrible manner, which drew several brick-makers out of their lodging to secure their bricks from the weather, and was also the occasion that the murderers did not get far from the place where their barbarity was acted before they were apprehended, so that heaven and earth seemed to unite in crying out against the inhuman deed, and detecting the wicked authors of it.

Some of the brick-makers, who had been alarmed by the thunder and rain, discovered Mr. Talbot lying in his shirt and drawers all bloody: they gave notice to their companions, who also came up. They then raised him, and cherished him with a dram which one of them had at hand; whereupon he immediately pointed which way the murderers went. The watch near Shoreditch were soon informed what had happened, and some of them came as well to take care of the wounded gentleman, as to apprehend the authors of his misfortune. One of the number quickly discovered a man lying among the nettles, and called up his companions, supposing he also had been murdered; but when they came to a nearer exami-

nation, they saw a bloody knife on one side of him, and the minister's doublet on the other. Upon these circumstances, presuming he was guilty of the murder, they apprehended him. At first he feigned himself asleep, and then suddenly starting up, he attempted to make his escape, but in vain. A pewter pot, with the mark newly scraped out, was found near him, and one of the watchmen broke his head with it, which made him a little more tractable. In the meantime, Mr. Talbot, by the great care of the officers of the night was carried to the Star Inn at Shoreditch Church, where he was put to bed, and whither a surgeon was sent for to dress, and take care of his wounds.

This man, who was apprehended, was Eaton, the confectioner; he was carried before Mr. Talbot, who instantly knew him, and by writing, declared that he was the man who cut his throat; and that five more men, and a woman, were his associates. A second time, upon Mr. Talbot's own request, Eaton was brought before him, when he continued his former accusation against him; whereupon he was carried before Justice Pitfield, and by him committed to Newgate. It was not long after Eaton, before the woman was found, who also pretended to be asleep. Mr. Talbot swore as positively to her, as he had done to the other, and enquired of the constable whether her name was not Sarah? For he had heard one of her comrades say to her, when in Holborn, Shall we have a coach, Sarah? The constable demanded her name, and she not suspecting the reason, told him right, which confirmed the evidence of the dying gentleman. Shortly after a third, and then a fourth was taken, who were also committed to Newgate, Mr. Talbot knowing one of these also.

The care of Mr. Talbot's wounds was committed to one Mr. Litchfield, an able surgeon, who diligently attended him; and that nothing might be omitted which might conduce to his recovery, Dr. Hodges, one of the physicians employed by the city, during the dreadful visitation in 1665, was likewise called. To these, at the request of the minister of the Charter-house, Dr. Ridgely was added. By their joint direction, he was in a fair way to be cured, no ill symptoms appearing from Monday morning to the Sabbath day following, either upon

account of his wounds, or otherwise; for though he lay some time in the wet, yet through the experience of these gentlemen, he was kept from a fever. Several other surgeons also freely offered their assistance.

About noon on Sunday he was dressed, the wound looked well, and he seemed more cheerful than ordinary; but within two or three hours after, a violent fit of coughing seized him, which broke the jugular vein, and caused such an effusion of blood, that he fainted, and his extreme parts were cold, before any one could come to his assistance. The flux was once stopped, but upon coughing he bled again, so that his case was almost past hope.

About one or two next morning, he sent for Dr. Hatfield, minister of Shoreditch Church; and though he had before said little more than aye or no, and his physicians desired him not to strain those parts where his danger lay, but rather write his mind; notwithstanding all this, he talked very familiarly to the doctor, telling him, "That he hoped to be saved by the merits of Jesus Christ only." Then the doctor pressed him to declare, whether he were still fully satisfied as to the persons he swore against; to which he readily answered, "That he was certain he was not mistaken in what he had done." Being asked whether or not he could freely forgive them, he replied, "That he prayed for the welfare of their souls, but desired the law might be executed on their bodies." In a word, this reverend gentleman seemed very submissive under this severe dispensation, believing a Providence in every thing that happened. The doctor prayed by him, and departed, and within two hours after, he expired, having been very devout and composed to the last moment.

Several attestations were made before the Justice, and at the trial of the prisoners, concerning Mr. Talbot's having been dogged and murdered, by those who had either seen him the day before, or came up to him first, when he was left in the lamentable condition we have been describing. Mr. Went, in particular, who was constable of the night, when this murder was committed, gave a particular relation of taking the prisoners, and of what Mr. Talbot said and wrote, when he saw any one of them. The papers which the deceased wrote were

likewise produced in court, and it was observable that he particularly exclaimed against the woman, whom he called bloody every time he mentioned her, affirming, that she said to her companions several times, "kill the dog, kill him."

The facts and circumstances were so plain, that the jury found all the four that had been taken, guilty of the murder, not one of them being able to give a satisfactory account of themselves, or to prove where they were after six o'clock, the night the bloody deed was done. The names of these four were given at the beginning of this relation.

Mr. Cowper, the coroner, and Mr. Litchfield the surgeon, gave in their informations, an exact account of Mr. Talbot's wound, and both of them deposed, "That they verily thought it to be the occasion of his death." Mr. Litchfield said, "The knife really penetrated his lungs."

The night before Mr. Talbot died, he wrote to Mr. Went the constable, desiring him to go to the ordinary, and enquire with him of Eaton, whether any of Laindon's people employed or abetted him in the fact he had committed, if they did, to get their names of him. But Eaton persisted in denying, not only that, but even the fact itself, telling them in the most solemn manner, "That, to his knowledge, he never in his life saw Mr. Talbot, till he was brought before him, after he was taken." Sarah Swift likewise being questioned concerning her guilt, and urged to confess what she knew, she answered, "That she would burn in hell before she would own any thing of the matter." To such an uncommon degree had these wretches hardened themselves in their crimes.

Mr. Talbot wrote also several letters to his friends, with an exact account of the manner in which he had been followed for seven hours together, and how he was at last set upon, and used in the barbarous manner herein related; but the substance of these letters being interspersed in the story itself, it is needless to give them at large.

On Wednesday the 14th of July, 1669, Stephen Eaton, George Roades, and Sarah Swift, were conveyed in a cart to Tyburn, where the two men confessed the murder; but the woman continued obstinate to the last.

Henry Pritchard was reprieved upon some favourable circumstances that were produced.

It is wonderful what could excite those poor creatures to pursue the blood of an innocent man at this unaccountable rate; and indeed it is scarce to be imagined, that they should pitch upon one from whom they could have no very great expectations, unless they had been hired to do it, or had some personal quarrel with him, which latter could not be true. However as none of them owned who were their abettors, or whether they were employed or not, we must not take upon us to judge in this case; but leave the decision of this point to that great and awful day, when the secrets of men's hearts shall be revealed, and every thing that has been hid shall be made manifest.

WILLIAM PENN, AND WILLIAM MEAD,

FOR A RIOT AND CONSPIRACY, AT THE SESSIONS HELD
AT THE OLD BAILEY;

the 1st, 3rd, 4th, and 5th of September, 1670. .

THE indictment sets forth.—

“That the said William Penn, and William Mead, with divers other persons, to the number of three hundred, on the 14th of August, in the twenty-second year of the king, did unlawfully and tumultuously assemble themselves together in Gracechurch-street, to the disturbance of the peace: and that the said William Penn (by agreement between him and William Mead, and being abetted by him) did there speak and preach to the said William Mead, and the rest so assembled; whereby a great concourse and tumult was made and continued, to the great terror and disturbance of his Majesty's liege people, and against the peace, &c.”

To which indictment the prisoners respectively pleaded
Not Guilty.

Then they were set aside, and the court proceeded to other business; and the third of September they were ordered to be brought to the bar again, and one took off their hats as they came into court; but the court ordered an officer to put on their hats again, and they stood with their hats on.

The Recorder demanded of the prisoners, if they did not know it was the King's court? And why they did not pull off their hats, and pay the respect to it they ought?



WILLIAM PENN.



Engraving of William Penn

Penn answered, he knew it to be a court, and he supposed it to be the king's; but he did not think the pulling off a hat showed any respect: then the court fined them forty marks apiece for their contempt: whereupon Penn desired it might be observed, that they came in with their hats off, and the court had ordered them to be put on, and therefore the bench ought rather to have been fined than they.

The jury being sworn, the king's witnesses were called; and first,

Lieutenant James Cook was sworn.

He deposed, that he was sent for to disperse a meeting in Gracechurch-street, and that he saw Mr. Penn speaking to the people there, but could not tell what he said; and that he endeavoured to get to him, but could not for the crowd; and Mr. Mead came to the deponent, and desired him to let Mr. Penn go on, and when he had done, he would bring him to the deponent; and that the deponent believed, there might be three or four hundred people assembled there.

Richard Read, the constable, was sworn.

He deposed, that on the 14th of August he found a great crowd in Gracechurch-street, and heard Mr. Penn preaching to them, but could not distinguish what he said: that he endeavoured with his watchmen to pull him down, but the people kicked them; and that he saw Captain Mead speaking to Lieutenant Cook, but did not know what he said; and that he thought there were four or five hundred people gathered together.

— Another witness was sworn.

He deposed, he saw great numbers of people, and he thought Mr. Penn was speaking to them, but he could not hear what he said; and that he did not see Captain Mead there.

Rec.—What say you, Mr. Mead, were you there?

Mead.—It is a maxim in your law, *Nemo tenetur seipsum accusare*: why dost thou endeavour to ensnare me? is this like a judge, who ought to be of council for the prisoner?

Penn.—We declare it to all the world, we believe it to be our indispensable duty to meet incessantly upon so good an account; nor shall all the powers on earth divert us from adoring our God who made us.

Court.—You are not here for worshipping God, but for breaking the law.

Penn.—I affirm I have broken no law, and would know upon what law you ground the indictment?

Rec.—Upon the common law.

Penn.—Where is that common law? if it were common, it should not be hard to produce.

Rec.—Must I run over all the adjudged cases, which we call common law, to satisfy your curiosity?

Ld. Mayor.—It is called common, to distinguish it from statute law: you must understand, that such assemblies endanger the public peace, and therefore the law deems them unlawful, unless they have a warrant for their assembling.

Penn.—My liberty, which is next to life, is now concerned; and I say again, unless you show me and the people the law you ground your indictment upon, your proceedings are arbitrary: the question is not, whether I am guilty of this indictment, but whether this indictment be legal?

Rec.—If I should suffer you to ask questions until to-morrow, you would be never the wiser.

Penn.—That is according as the answers are: I design no affront to the court; but if you deny me oyer of that law you suggest I have broken, you evidence to the whole world your resolution to sacrifice the privileges of Englishmen to your sinister and arbitrary designs.

Ld. Mayor.—Take him away; turn him into the bail-dock.

Penn.—Must I be taken away, because I plead for the fundamental laws of England? However, I leave it upon the consciences of the jury, who are my sole judges, whether those antient laws, that relate to liberty and property, and are not limited to particular persuasions in matters of religion, ought not to be indispensably maintained; otherwise, who can say he has a right to the coat upon his back? Our liberties may be invaded, our wives ravished, our children made slaves, our families ruined, and our estates carried off in triumph by every sturdy beggar, and malicious informer.

Then he was carried away into the bail-dock.

Mead.—You men of the jury, I stand here to answer an indictment, which is a bundle of stuff full of lies and falsehood: they charge me, that I met *Vi et armis illicite et tumultuose*. Time was indeed, when I had freedom to use a carnal weapon, and then I thought I feared no man, but now I fear the living God, and dare

not make use thereof, or hurt any man; nor do I know I demeaned myself as a tumultuous person; and therefore William Penn properly demanded oyer of the law on which the indictment is founded. You men of the jury, though Mr. Recorder will not tell you what makes a riot, a rout, or an unlawful assembly, Coke tells us, a riot is, where three or more are met together to beat a man, to enter forcibly into his land, or to cut down his grass, wood, pales, &c.

Rec.—Or to do any other unlawful act; but I thank you, Mr. Mead, for telling me what the law is; (pulling off his hat.)

Mead.—Thou mayest put on thy hat; I have never a fee for thee now.

Ld. Mayor.—You profess to be a meek man, but deserve to have your tongue cut out for affronting the court.

Mead.—Thou didst promise me I should be fairly heard: why may not I have the privilege of an Englishman? You may be ashamed of this dealing.

Rec.—You are an enemy to the laws of England, and do not deserve the privileges others have.

Mead.—The Lord judge between me and thee in this matter.

Then he was put into the bail-dock, and the recorder directed the jury:

Which while he was doing, Penn and Mead cried out from the bail-dock, that it was illegal to direct the jury in the absence of the prisoner, and quoted Coke's second institution, on the chapter of magna charta.

Rec.—Why you are present, you do hear, do you not?

Then the prisoners cried out, they had several other things to offer, and that they had been violently thrust into the bail-dock, and not suffered to make their defence.

The court ordered the jury to go together, and after half an hour eight of them came down, and the court sent for the other four, and demanded if the prisoners were guilty.

The foreman answered, that Penn was guilty of speaking in Gracechurch-street.

Rec.—You had as good say nothing.

Ld. Mayor.—Was it not an unlawful assembly? You mean, he was speaking to a tumult of people there.

Foreman.—That is all I have in commission.

Rec.—Go and consider of it again.

After some time the jury returned into court.

Clerk. How say you, is William Penn guilty in manner and form, as he stands indicted?

Then the foreman tendered the following paper to the court, signed by all the jury.

We, the jurors hereafter named, do find William Penn to be guilty of speaking or preaching to an assembly met together in Gracechurch-street, the 14th of August last, 1670. And that William Mead is not guilty of the said indictment.

Some of the bench were for accepting this verdict; but the evidence being as full against Mead, as against Penn, the court refused it.

Ld. Mayor.—You have heard that he preached, that he thereby created a tumult, and that Mead abetted him; and they not only disobeyed the martial, but the civil power.

Penn.—We did not make the tumult, but they that interrupted us. We were by force and arms kept out of our lawful house, and met together in a peaceable manner as near to it, as the soldiers would give us leave.

The court swore an officer to keep the jury without meat, drink, fire or candle, and adjourned until next morning; when the jury came into court again.

Clerk.—Is William Penn guilty, &c.?

Foreman.—William Penn is guilty of speaking in Gracechurch-street.

Ld. Mayor.—To an unlawful assembly.

Bushel.—No, my lord, we give no other verdict than that we gave last night.

Ld. Mayor.—You are a factious fellow, and a course ought to be taken with you.

Rec.—I will have a positive verdict, or you shall starve for it.

Penn.—Have they not found William Mead not guilty? Is not that a verdict?

Rec.—It cannot be a verdict, because you were indicted of a conspiracy; and one being found not guilty, and not the other, it cannot be a verdict.

Penn.—The consent of the jury is a verdict; and if William Mead be not guilty, it follows that I am clear; for I could not conspire alone.

The court adjourned until next day, and directed the jury to be kept as before: but when they returned into court the next morning, they gave a verdict, that the prisoners were neither of them guilty.

Whereupon the court set a fine of forty marks upon the head of every one of the jury, and ordered them to be imprisoned until paid, for going contrary to plain evidence.

Penn.—I demand my liberty, being acquitted by the jury.

Ld. Mayor.—No: you are in for your fines, and contempt of the court.

Then the jury, as well as the prisoners, were commanded to be carried to Newgate, and the court arose.

THE GERMAN PRINCESS,

EXECUTED ON THE 26th JANUARY, 1673.

THIS woman was so called from her pretending to be born at Cologne in Germany, and that her father was Henry Van Wolway, Lord of Holmstein. But she was really the daughter of one Moders, a chorister at the cathedral of Canterbury, or as some say, only an indifferent trader of that city, in which she was born the 11th of January, 1642. We can say little of her education, only from her inclinations afterwards we may suppose she had as much learning as is commonly given to her sex. She took great delight in reading, especially of romances, and books of knight errantry; and her memory was so tenacious, that she could repeat a great part of the amours and adventures very readily.

Her marriage was not agreeable to the high opinion she had entertained of her own merit; instead of a knight or a squire at least, which she had promised herself, she took up with a journeyman shoemaker, whose name was Stedman, by whom she had two children, who both died in their infancy. This man being unable to maintain her extravagances, and support her in the splen-

dour she always aimed at, she was continually discontented, till at last she resolved to leave him, and seek her fortune. A woman of her spirit is never long in executing things of this nature ; she made an elopement ; and went to Dover, where she married another husband who was a surgeon of that town.

Information of this affair was soon taken, and she was apprehended and indicted at Maidstone, for having two husbands, but by some masterly stroke, which she never wanted on a pressing occasion, she was quickly acquitted. This emboldened her to a third marriage with one John Carleton, a Londoner, which was the occasion of her being first publicly known in town ; for some of her old acquaintance giving Carleton's brother an account of her former weddings, she was again taken, committed to Newgate, and tried at the Old Bailey for polygamy. Here again the evidence against her was insufficient, so that she was a second time acquitted.

It is requisite, before we proceed any further in our relation, to observe, that between the two last marriages, she embarked on board a merchant ship, which carried her to Holland, from whence she travelled by land to the place she had so often talked of, the city of Cologne, where being now mistress of a considerable sum of money, she took a fine lodging at a house of entertainment, and lived in greater splendour than she had ever before done. As it is customary in England, to go to Epsom or Tunbridge-wells in the summer season, so in Germany, the quality usually frequent the Spaw. Here our adventuress had the picking of a few feathers from an old gentleman who fell in love with her, and who had a good estate not many miles distant from Cologne at Liege or Luget ; by the assistance of the landlady, she managed this affair with so much artifice, that he presented her with several fine and valuable jewels, besides a gold chain, with a very costly medal, which had been formerly given him for some remarkable good service, under Count Tilley, against Gustavus Adolphus, King of Sweden. The foolish old man urged his passion with all the vehemence of a young lover, pressing her to matrimony, and making her very large promises, till at last she gave her consent to espouse him in three days, and he left the preparation of things necessary to her care, giving her large sums of

money for that purpose. Madam now perceived it was high time to be gone, and in order to her getting off with the greater security, she acquainted her landlady with the design, who had before shared pretty largely in the spoils of the old captain. The hostess was willing to hearken to any proposal that would help her a little more to fleece the innamorato.

The princess, however, was resolved to have all the booty to herself; and to accomplish this, she persuaded her landlady to go into the town, and get a place for her in some carriage that did not go to Cologne in order that her lover should not know whither to follow her. The old woman saw that this precaution was very necessary, and therefore she went to provide for the safety of her guest. This was all our adventuress wanted, for as soon as she found herself left alone, she broke open a chest, where she had observed her landlady to put all her treasure, and there she found not only what she had shared with her out of the old man's benevolence, but also, an additional sum of money not inconsiderable. She took all that was worth taking; and soon packed up her parcel, and having before privately made sure of a passage to Utrecht, she fled thither, from thence she went to Amsterdam, where she sold her gold chain, medal, and some of the jewels, then proceeded to Rotterdam, and then to the Brill, where she took shipping for England.

She landed at Billingsgate one morning very early, about the latter end of March, in the year 1663, but found no house open till she came to the Exchange Tavern, where she first obtained the title of the German princess, in the following manner.

In the aforesaid tavern, she got in company with some gentlemen, and they addressing her in the manner usual on such occasions, the tears trickled down her cheeks, she sighed, sobbed, and the cause being demanded, told them, that she little thought once of being reduced to such wretched necessity, as she was now. Here she repeated the history of her extraction and education, telling them about her pretended father, the Lord Henry Van Wolway, who she said, was a sovereign prince of the empire, independent of any man, but his sacred imperial majesty. "Certainly," continued she, "any gentleman may suppose what a mortification it must be to

a woman born of such noble parents, and bred up in all the pomp of a court, under the care of an indulgent father, to suffer as I now do ; yet why did I say indulgent father ? alas ! was it not his cruelty that banished me his only daughter, from his dominions, only for marrying a nobleman of the court, whom I loved to excess, without his knowledge. Was it not my father that occasioned my dear lord and husband to be cut off in the bloom of his age, by falsely accusing him of a design against his person ; a deed which his virtuous soul abhorred." Here she pretended her sorrow would permit her to rehearse no more of her misfortunes, and the whole company were touched with compassion at the melancholy relation, which she so well humoured, that they all looked upon it as true, giving her out of mere pity all the money they had about them, promising to meet her again with more. This they also accomplished, and ever afterwards called her the unfortunate German Princess ; which name she laid claim to in all companies.

The Exchange tavern was kept by one Mr. King, who was the same as kept it when our princess received her honorary title. As she was now come from foreign parts, with great riches, he believed more than ever, the truth of what she had before affirmed ; nor was she backwards in telling him that she had raised all her wealth by private contribution from some princes of the Empire, who were acquainted with her circumstances, and to whom she had made herself known. Adding, that not one of those who had given her any thing, dared to acquaint her father that they knew where she was, because they were all his neighbours, and vastly inferior to him in the number and strength of their forces, for, said she, my father is so inexorable, that he would make war upon any prince, who he knew extended his pity to me.

John Carleton, whom we mentioned before as her third husband, was brother-in-law to Mr. King. He made his addresses to the princess Van Wolway, in the most dutiful and submissive manner that could be imagined, making use of his brother's interest, to negotiate the affair between them, till with a great deal of seeming reluctance, at marrying one of common blood, her highness consented to take him to her embraces. Now was Mr. Carleton in the arms of an imaginary princess ;

he formed to himself a thousand pleasures, which the vulgar herd could have no notion of; he threw himself at her feet in transport, and made use of all the rhetoric he could collect, to thank her for the prodigious honour she had done him. But alas! how was he surprised, when Mr. King presented him with the following letter.

SIR,

I am an entire stranger to your person, yet common justice obliges me to give you notice, that the pretended princess, who has passed herself upon your brother, Mr. John Carleton, is a cheat and an impostor.

If I tell you, Sir, that she has already married several men in our county of Kent, and afterwards made off with all the money she could get into her hands, I say no more than could be proved, were she brought in the face of justice.

That you may be certain I am not mistaken in the woman, please to observe, that she has very high breasts, a very graceful appearance, and speaks several languages fluently.

Yours unknown,

T. B.

After Mrs. Carleton (for so we must call her) had got rid of her husband, and of the prosecution for marrying him, she was entertained by the players, who were in hopes of gaining by a woman, who had made such a considerable figure on the real theatre of the world. The house was very much resorted to upon her account, and she got a great deal of applause in her dramatical capacity, by the several characters she performed, which were generally either jilt, coquette, or chambermaid, either of which was agreeable to her intriguing genius; but what contributed most to her fame, was a play, written purely upon her account, called the German Princess, from her name, and in which she performed a principal part, besides speaking the epilogue.

The princess had too much mercury in her constitution to be long settled in any way of life whatsoever. The whole city of London was too little for her to act in: how was it possible, then, that she should be confined in the narrow limits of a theatre? She did not, however, leave the stage so soon but she had procured a considerable number of adorers, who having either seen her person or heard of her fame, were desirous of a nearer acquaintance with her. As she was naturally given to company and gallantry, she was not very diffi-

cult of access ; yet when you were in her presence, you were certain to meet with an air of indifference.

There were two men who, from a deficiency of wit in themselves, were delighted with the large quantity of that commodity which they discovered in the princess, and for that reason were frequently in her company. There is no doubt but that they had other designs than just to converse with her ; and Madam was not so ignorant but she knew their meaning. She therefore gave them encouragement till she had drained about 300*l.* a-piece out of them ; and then finding their stock pretty well exhausted, she turned them both off, telling them she wondered how they could have the impudence to pretend love to a princess.

After this, a gentleman fell into the same condition at seeing her, as several had done before, though he was fifty years of age, and not ignorant of her former proceedings. He was worth about 400*l.* per annum, and immediately resolved to be at the charge of a constant maintenance, provided she would consent to live with him ; to bring about which he made her several valuable presents of rings, jewels, &c. At last, after a long siege he became master of the fort ; yet in such a manner that it seemed rather to be surrendered out of pure love and generosity, than from any mercenary views ; for she always protested against being corrupted so far as to part with her honour for the sake of lucre. The gentleman, though, as has been remarked, he was sensible what she was, yet by degrees he became so enamoured as to believe every thing she said, and to look upon her as the most virtuous woman alive.

Living now as man and wife, she seemed to redouble her endearments, and to give them all a greater air of sincerity, so that he was continually gratifying her with some costly present or another, which she always took care to receive with an appearance of being ashamed he should heap so many obligations on her, telling him continually that she was not worthy of so many favours. Thus did she vary her behaviour, according to the circumstances and temper of the person she had to deal with. At last the old lover came home one night very much in liquor, and gave her a jewel of 5*l.* value, and

our princess thought this as proper a time as any she was like to meet with, for her to make the most of his worship's passion. Accordingly, having got him to bed and seen him fast asleep, which he soon was at this time, she proceeded to rifle him, finding his pocket-book, with a bill for 100*l.* upon a goldsmith in the city, and the keys of his trunks and escrutoires.

She now proceeded to secure all that was worth her while ; among other things, she made herself mistress of twenty pieces of gold, a gold watch, a gold seal, an old silver watch, and several pieces of plate, with other moveables, to the value in all of 150*l.* Now she thought it best for her to make off as fast as she could with her prize. So as soon as it was day she took coach, and drove to the goldsmith, who mistrusted nothing, having seen her before with the gentleman, and instantly paid the 100*l.* upon which she delivered up the bill.

It would be impossible to relate half the tricks which she played, and mention half the lodgings in which she at times resided. Seldom did she miss carrying off a considerable booty wheresoever she came ; at best she never failed of something, for all was fish that came to her net ; where there was no plate, a pair of sheets, half a dozen napkins, even things of a less value than these, would serve her turn, rather than she would suffer her hands to be out of practice.

One time she went to a mercer's in Cheapside, with her pretended maid, where she agreed for as much silk as came to 6*l.* and pulled out her purse to pay for it, but there was nothing therein but several particular pieces of gold, which she pretended to have a great value for : the mercer, to be sure, would not be so rude as to let a gentlewoman of figure part with what she had so much esteem for ; so he ordered one of his men to go along with her to her lodgings, and receive the money there. A coach was ready, which she had brought along with her, and they all three went up into it. When they came to the Royal Exchange, she ordered the coachman to set her down, pretending to the mercer that she wanted to buy some ribbons suitable to the silk ; upon which he suffered the maid, without any scruple, to take the goods along with her, staying in the coach for their return. But he might have staid long enough, if he had waited

till they came again, for they found means to get off into Threadneedle-street, and the young man having waited till he was quite weary, made the best of his way home to rehearse his misfortune to his master.

Something of a piece with this was a cheat she put upon a French master weaver in Spitalfields, of whom she bought to the value of 40*l.* taking him home with her to her lodgings, and bidding him make a bill of parcels, for half the silk was for a kinswoman of hers in the next room. The Frenchman sat down very orderly to do as she bade him, whilst she took the silk into the next room for her niece to see it: half an hour he waited pretty contentedly, drinking some wine, which madam had left him. At last, beginning to be a little uneasy, he made bold to knock, when the people of the house came up, and upon his asking for the gentlewoman, told him she had been gone out some time, and was to come there no more. The poor man seemed surprised; they took him into the next room, and shewed him a pair of back stairs which was the proper way to her apartment. Monsieur was at first in a passion with the people, till they convinced him that they knew nothing of his gentlewoman, than that she had taken their room for a month, which being expired, she was removed they could not tell whither.

The next landlord she had was a tailor, whom she employed to make up what she bilked the mercer and weaver of. The tailor imagined he had got an excellent job, as well as a wealthy woman for his lodger, so he fell to work immediately, and by the assistance of some journeymen which he hired on this occasion, he got the clothes finished against the day which she appointed, when she pretended she was to receive a great number of visitors. Against the same time she gave her landlady 20*s.* to provide a supper, desiring her to send for what was needful, and she would pay the overplus next day. Accordingly an elegant entertainment was prepared, abundance of wine was drank, and the poor tailor got as drunk as a beast. This was what our princess wanted, for the landlady going up to put her husband to bed, she and all her guests slipped out, one with a silver tankard, another with a salt, her maid with the clothes which were not on their backs; and, in a word, not one

of them all went off empty-handed. Being got into the street, they put the maid and the booty into the coach, getting themselves into others, and driving by different ways to the place of their next residence, not one of them being discovered.

Another time she had a desire, it seems, to put herself into mourning, to which purpose she sent her woman to a shop in the New Exchange, in the Strand, where she had bought some things the day before, to desire that the people would bring choice of hoods, knots, scarfs, aprons, cuffs, and other mourning accoutrements, to her lodging instantly, for her father was dead, and she must be ready in so many days to appear at his funeral. The woman of the shop presently looked out the best she had of each of these commodities, and made the best of her way to madam's quarters. When she came there, the poor lady was sadly indisposed, so that she was not able to look over the things till after dinner; when, if madam milliner would please to come again, she did not doubt but they should deal. The good woman was very well satisfied, and refused to take her goods back again, but desired she might trouble her ladyship so far as to leave them there till she came again, which was very readily granted. At the time appointed the tradeswoman came, and asked if the lady above stairs was at home, but was told, to her great mortification, that she was gone out they could not tell whither, and that they believed she would never return again; for she had found means, before her departure, to convey away several of the most valuable pieces of furniture in the room which she had hired. The next day confirmed their suspicion, and made both the landlord and milliner give her up for an impostor, and their goods for lost.

Not long after this the princess was apprehended for stealing a silver tankard in Covent Garden, and after examination, committed to Newgate. At the following sessions she was found guilty, and condemned, but was afterwards reprieved, and ordered for transportation. This sentence was executed, and she was sent to Jamaica, where she had not been above two years before she returned to England again, and set up for a rich heiress. By this means she married a very wealthy apothecary

at Westminster, whom she robbed of above 300*l.* and then left him.

After this she took a lodging in a house, where no body lived but the landlady, a watchmaker, who was also a lodger, and herself and maid. When she thought her character here pretty well established, she one night invited the watchmaker and her landlady to go with her and see a play, pretending she had a present of some tickets. They consented, and only madam's maid, who was almost as good as herself, was left at home. She, according to agreement, in their absence, broke open almost all the locks in the house, stole 200*l.* in money, and about thirty watches; so that the prize, in all, amounted to about 600*l.* which she carried to a place before provided, in another part of the town. After the play was over, our princess invited her companions to drink with her at the Green Dragon Tavern, in Fleet-street, where she gave them the slip, and went to her maid.

We now proceed to the catastrophe of this prodigious woman, who, had she been virtuously inclined, was capable of being the Phoenix of her age; for it was impossible for her not to be admired in every thing she said and did. The manner of her last and fatal apprehension was as follows, we having taken the account from the papers of those times:—

One Mr. Freeman, a brewer in Southwark, had been robbed of about 200*l.*, whereupon he went to Mr. Lowman, keeper of the Marshalsea, and desired him to search all suspicious places, in order to discover the thieves. One Lancaster was the person most suspected, and while they were searching a house near New Spring Gardens for him, they spied a lady, as she seemed to be, walking in the two pair of stairs room, in a night gown: Mr. Lowman immediately entered the room, saw three letters on the table, and began to examine them: madam seemed offended with him, and their dispute caused him to look on her so stedfastly, that he knew her, called her by her name, and carried away both her and her letters.

This was in December 1672, and she was kept close prisoner till the 16th of January following, when she was brought by writ of habeas corpus to the Old Bailey, and asked whether or not she was the woman who usually

went by the name of Mary Carleton, to which she answered that she was the same; the court then demanded the reason of her returning so soon from the transportation she had been sentenced to. Here she made many trifling evasions to gain time, by which means she gave the bench two or three days trouble. At last, when she found nothing else would do, she pleaded her belly, but a jury of matrons being called, they brought her in not quick with child. So that on the last day of the sessions she received sentence of death in the usual form, with a great deal of intrepidity.

After condemnation she had abundance of visitants, some out of curiosity, others to converse with her, learn her sentiments of futurity, and give her such instructions as were needful. Among the latter was a gentleman, to whom she discovered herself to be a Roman Catholic, professed her sorrow for her past life, and wished she had her days to live over again; she also blamed the women who were her jury for their verdict, saying that she believed they could not be sure of what they testified, and that they might have given her a little more time.

On the 22d of January, which was the day of her execution, she appeared rather more gay and brisk than ever before. When her irons were taken off (for she was shackled,) she pinned the picture of her husband Carleton to her sleeve, and in that manner carried it with her to Tyburn. Seeing the gentleman who had conversed with her, she said to him in French, *mon ami, le bon Dieu vous benisse*. At hearing St. Sepulchre's bell toll, she made use of several ejaculations. One Mr. Crouch, a friend of hers, rode with her in the cart, to whom she gave at the gallows two Popish books, called 'The Key of Paradise, and 'The Manual of Daily Devotion. At the place of execution she told the people, that she had been a very vain woman, and expected to be made a precedent for sin; that though the world had condemned her, she had much to say for herself; that she prayed to God to forgive her, as she did her enemies; and a little more to the same effect. After which she was turned off, in the 38th year of her age, and in the same month she was born in.

Her body was put into a coffin, and decently buried in St. Martin's church yard.

ANDREW RUTHERFOORD OF TOWNHEAD,

FOR THE MURDER OF JAMES DOUGLASS,

BROTHER TO SIR WILLIAM DOUGLASS, OF CAVERS,

NOVEMBER 6, 1674.

THE prisoner was accused of having conceived deadly malice against the deceased ; that having dined together in a farmer's house on the 9th of July preceding, in company with several gentlemen, the prisoner, urged by this malevolent passion, on their way home from dinner, within half a mile of the town of Jedburgh, did murder the deceased, by giving him a mortal wound with a small sword through the arm, and through the body under the right pap, of which wounds he died within four hours ; that the prisoner immediately fled to England, and would have embarked at South Shields, for Holland, had he not been apprehended. The prisoner pleaded self-defence.

Robert Scott of Horslehill deposed,

That about ten at night of the 9th of July, the deponent, Charles Ker of Abbotrule, William Ker of Newtown, and their servants, the prisoner, and the deceased, after dining at Swanside, called in the evening at the house of John Ker at Berchope, in their way to Jedburgh. The deceased was riding a little way before the deponent, and the prisoner, who was at a distance behind, galloped up beyond the deponent to the deceased. They rode a little way together,—then alighted and drew their swords. The deponent knew not which of them drew first ; but on galloping up, he saw them pushing at each other, and called to them to desist ; but before he could alight, they were in each others' arms. The witness asked if there was any hurt done ; to which the prisoner answered, none that he knew of ; but at the same time the deceased held out his right hand, and said that he had got blood. The witness demanded their swords, which they immediately delivered to him. Instantly thereafter the deceased sunk down, and the prisoner fled. A surgeon was sent for from Jedburgh, they being but a quarter of a mile from the town. By his order the deceased was put on a horse,—a man sitting behind, and one walking on each side. When they arrived at Jedburgh the deceased was laid on a bed, the surgeon probed the wound in his arm, and also that in his breast behind the right pap. The deceased died within two hours after receiving the wounds. Both in the field and when laid in bed, the deceased exclaimed, "Fie ! fie ! that I should be affronted by such a base man !" The witness did not hear the deceased say he was wounded before he drew ; as little did he hear him urge any thing before his death, in

vindication of the prisoner. The witness returned the prisoner his sword. All the company had drank freely.

The surgeon deposed,

That he thought the wound in the breast slight, and that the deceased died of the wound five inches long in his arm, an artery being pricked. Three witnesses were adduced for the prisoner, who deposed *nihil novit in causa*. A woman was then cited on his behalf, but the King's Advocate objected to a woman being admitted a witness, and the court refused to receive her, as there was no *penuria testium tempore mortis*.

The jury returned their verdict on the 12th of November, unanimously finding the prisoner guilty; and on the 16th the court passed sentence of death upon him, ordaining him to be beheaded on the 25th, at the Cross of Edinburgh.

GEORGE CLERK AND JOHN RAMSAY,

FOR THE MURDER OF JOHN ANDERSON, MERCHANT IN
EDINBURGH. JANUARY 17, 1675.

JOHN RAMSAY, servant to the deceased John Anderson, and George Clerk, late servant to Mr John Clerk of Pennycuik, were prosecuted for the murder of John Anderson, merchant in Edinburgh, at the instance of Mr. John Clerk of Pennycuik, and James Clerk, merchant in Edinburgh, nephews to the deceased, and of Sir John Nisbet of Dirleton, his Majesty's advocate.

The indictment sets forth, that the prisoners lived in the house with the deceased, and waited on him at the time of his death, and for some months preceding. The deceased was an unmarried person, and had nobody living in the house with him but the prisoners, who perfidiously abused the trust reposed in them. When their master was counting his money, having the room door shut upon him, they were in use to rap at the door, and when he opened it they slipped in and stole part of his money. The season was very sickly; a flux in particular raged with such violence that many died of it daily; and it was deemed so contagious, that those who were not infected were afraid to approach the sick, from the danger of infection. The prisoners conspired to bring this disease upon their master. They consulted one

Kennedy, apprentice to Thomas Henryson, apothecary in Edinburgh, in the month of October or November preceding, and got from him some purgative powders and drugs, which they administered to the deceased in his drink and otherwise. The first purging powder wrought slowly. They then got a white powder, which operated to their wishes; so that the deceased had recourse to Hugh Brown, apothecary, his ordinary medical adviser. The prisoners took advantage of the sickness they had brought on him, by combining to steal his money and jewels, which he kept in an iron chest. That they might steal with the greater security, they also applied to Kennedy for intoxicating or somniferous draughts,—obtained from him a medicine which he called syrup of poppy, and gave it to their master when he was bad, and keeping the house, without his knowledge or that of Brown his apothecary. It was mixed in his drink, and he fell in a deep sleep. They took out his keys, opened his chest, carried off a large gold chain, gold bracelets, a gold ring with a blue stone, two pieces of gold, twelve of silver, and five purse pennies, silver buttons, broaches, and various other articles. They then got from Kennedy several drugs, which he called powder of jalap and crystal of tartar, which they gave to their master. Clerk told Kennedy, that their master being ill, they had stolen several pieces of coin from him; and that there were three bags of money in his chest;—that they were resolved to take some of it, and would give Kennedy a part. They gave the jalap and the tartar to their master, to counteract the effect of Brown's prescriptions.

On the Wednesday preceding their master's death, which happened on Monday the 15th of November, 1674, Anderson's friends visited him, and he told them he was greatly better. On this, the prisoners fearing his recovery, and that he should discover their practices, came to a positive resolution to murder him—communicated it to Kennedy, and sought poison from him to effect their purpose. But Kennedy would not give poison, saying the body would swell, and so they would be discovered, but he would give a powder which would do the business slowly, and which he would engage would kill their master in a month. They got a powder accord-

ingly, which Kennedy called powder of jalap, but which either in quality, quantity, or frequency of being administered, was truly poison. On the five days immediately preceding his death, the prisoners and their associate Kennedy held frequent consultations in the shop of Kennedy's master, in the house of the deceased, and in the King's Park. They gave Kennedy part of what they had already stolen, and promised him an equal share of their future plunder. On Saturday night the deceased was so well that his apothecary said he would not visit him next day. On Sunday he was not thought near death, but rose, dressed himself, and supped in his usual style. On Sunday night the prisoners mixed some drugs in conserve of roses that had been prescribed for him by his own apothecary. These were so poisonous that he died on Monday morning at ten o'clock. At five o'clock their master called for the bed-pan, which they gave him; they then ran to the iron chest, filled their hands with jewels, goods, and money belonging to their dying master, and did not look near him till about eight o'clock, when they found him speechless, the white of his eyes turned up, and the bed swimming around him. They then called in the neighbours to see him die.

Both the prisoners emitted confessions corresponding in general to the charge in the indictment. They added, that before they conceived the idea of giving their master drugs to bereave him of life, they had frequently been in use to infuse powders in his drink, which made him outrageously drunk, that they might make sport of him in his drunkenness:—a dreadful lesson to beware of the first steps in vice. Had they not infused powders to make their master drunk, in order to gratify a barbarous and disrespectful mirth, the idea of taking away his life by similar means would not have occurred to them. They were convicted, and sentenced on the 8th of February to be hanged at the Cross of Edinburgh on the 1st of March, and their moveable goods to be forfeited.

The trial of Kennedy, the apothecary's apprentice, for furnishing the medicines, was brought on upon the 22d of February, 1676, and after various adjournments, and a tedious confinement of eighteen months, he, on his own petition, on the 30th of July, 1677, was banished for life.

CLAUDE DU VALL, HIGHWAYMAN.

EXECUTED AT TYBURN, 21ST OF JANUARY, 1669-70.

THIS celebrated highwayman was born at a place called Damfront, in Normandy. His father was a miller, and his mother the daughter of a taylor. By these parents he was brought up strictly in the Roman Catholic religion, and his genius was cultivated with as much learning as qualified him for a footman.

Neither father nor mother took any notice of young Claude after he was about thirteen years of age. Perhaps their circumstances might then oblige them to send him abroad to seek his fortune. His first stage was at Rouen, the capital city of Normandy, where he fortunately met with post-horses to be returned to Paris, upon one of which he got leave to ride, by promising to help to dress them at night. At the same time falling in with some English gentlemen, who were going to the same place, he got his expences discharged by those generous travellers.

They arrived at Paris in the usual time, and the gentlemen took lodgings in the fauxbourg St. Germain, where the English at that time generally quartered. Du Vall was willing to be as near as possible to his benefactors, and by their intercession he was admitted to run on errands, and do the meanest offices at the St. Esprit, in the Rue de Bourchiere; a house of general entertainment something between a tavern and an alehouse. In this condition he continued till the restoration of King Charles II., in 1660; at which time multitudes of all nations flocking into England, among them came Du Vall, in the capacity of footman to a person of quality.

The universal joy on the return of the royal family, made the whole nation almost mad; every one ran into extravagances, and Du Vall, whose inclinations were as vicious as any man's, soon became an extraordinary proficient in gaming, drunkenness, and all manner of debauchery. The natural effect of these courses is want of money; this our adventurer experienced in a very little time, and as he could not think of labouring, he took to the highway to support his irregularities. In this profession he was within a little while so famous, as

to have the honour of being named first in a proclamation for apprehending several notorious highwaymen. And here we have reason to complain that our informations are too short for our assistance in writing the life of such a celebrated offender. However, such stories as have been delivered down to us, we shall give our readers faithfully, and in the best manner we are able.

He had one day received intelligence of a knight and his lady that were travelling with four hundred pounds in their coach. Upon this he took four or five more along with him, and overtook them on the road. The gentry soon perceived they were like to be beset, when they beheld several horsemen riding backwards and forwards, and whispering one another; whereupon the lady, who was a young sprightly creature, pulled out a flageolet, and began to play very briskly. Du Vall took the hint, and played excellently well upon a flageolet of his own, in answer to the lady, and in this posture made up to the coach door. "Sir," said he to the knight, "your lady plays charming, and I make no doubt but she dances as well; will you please to step out of the coach, and let me have the honour to dance one courant with her on the heath?" "I dare not deny any thing, Sir," the knight replied, "to a gentleman of your quality and good behaviour; you seem a man of generosity, and your request is perfectly reasonable." Immediately the footman opened the door, and the knight came out; Du Vall leaped off his horse, and handed the lady down. It was surprising to see how gracefully he moved upon the grass; scarce a dancing-master in London but would have been proud to have shewn such agility in a pair of pumps, as Du Vall shewed in a great pair of French riding boots. As soon as the dance was over, he waited on the lady back to the coach, without offering her the least affront; but just as the knight was stepping in, "Sir," said he, "you have forgot to pay the music." His worship replied, that he never forgot such things, and instantly put his hand under the seat of the coach, and pulled out a hundred pounds in a bag, which he delivered to Du Vall, who received it with a very good grace, and courteously answered: "Sir, you are liberal, and shall have no cause to repent your being so; this hundred pounds given so generously, is better than ten

times the sum taken by force ; your noble behaviour has excused you the other three hundred pounds which you have in the coach with you." After this he gave him the word, that he might pass undisturbed, if he met any more of their crew, and then very civilly wished them a good journey.

Another time, as Du Vall and some of his companions were patrolling upon Blackheath, they met with a coach full of ladies. One of them had a young child in her arms, with a silver sucking-bottle. The person appointed to act in this adventure, robbed them very rudely, taking away their money, watches, rings, and even the poor baby's sucking-bottle. The infant cried, as was natural on such an occasion, and the ladies intreated him only to return the bottle ; but the surly thief refused to give any ear to their request, till Du Vall observing he staid longer than ordinary, rode up, and demanded what was the matter. The ladies, hereupon, renewed their petition in behalf of the child, and Du Vall threatened to shoot his companion, unless he restored what they required, adding these words : " Sirrah, can't you behave like a gentleman, and raise a contribution, without stripping people ; but, perhaps, you had some occasion for the sucking bottle, for by your actions one would imagine you were hardly weaned." This sharp reproof had the desired effect ; and Du Vall took his leave of the ladies in a courteous manner.

A little after the abovementioned action, another lucky turn in Du Vall's favour happened, as much as that to his advantage. In the course of his rambles, he came into the Crown Inn, in Beaconsfield, where he heard great singing, dancing, and playing upon the hautboy and violin. He instantly enquired into the reason of it, and found that there was a wake or fair kept there that day, at which were present most of the young men and maids for several miles about. This, he thought, was a promising place ; and therefore he set up his horse for that evening, went into the kitchen, and called for a pint of wine. Here he met with an old rich farmer, who had just received a hundred pounds, tied it up in a bag, and put it into his coat pocket. Du Vall was very attentive to all that passed, and by this means he heard the farmer tell an acquaintance what money he had about

him, which our sharper immediately set down for his own, more especially did he depend upon it, when the countryman asked leave to go into the room where the music was, to see and hear the diversions. It was his next business to ask the same favour, which he as easily obtained, and very innocently, to all appearance, entered to see the country dancing, making an apology to the company when he came in, and telling them, that he hoped it would be no offence. They replied as courteously, that he might stay there and welcome.

His business now was more to watch the old farmer's bag of money, than to mind the diversions of the young people; and after considering some time for a way to excuse his designs in the most dextrous manner, he observed a chimney with a large funnel, which he thought would favour his project. Having contrived the whole affair, he went out and communicated it to the hostler, who, being a downright rascal, consented for a reward of two guineas, to assist him. He was to dress up a great mastiff dog in a cow-hide, which he had in the stable, placing the horns directly on his forehead, and then by the help of a ladder and a rope to let him down the chimney. All this he performed while the company were merry in the chamber. Du Vall being returned from the yard, the dog, howling as he descended, came down the chimney, and pushing among them in this frightful manner, they were all put into a hurry and confusion. The music was silenced, the table overthrown, and the drink spilt; the people all the while screaming and crowding down stairs as fast as they were able, every one struggling to be foremost, as they supposed the devil would unavoidably take the hindmost. Their heels flew up, and the pipe and the fiddle were trod to pieces. While they were in this condition the supposed devil made his way over them all, and got into the stable, where the hostler instantly uncased him; so that when the company came to examine the matter, as they could hear no more of him, they concluded he was vanished into the air.

Now was the time for Du Vall to take care of the farmer's hundred pounds, which he very easily did by diving into his pocket. As soon as he had got the

money, he took horse, and spared neither whip nor spur till he came to London, where he thought himself safe. As soon as things were a little in order again at the inn, there was a dismal outcry for the money; all the suspicious persons were searched, and the house was examined from top to bottom to no purpose. What could they suppose after this, but that the devil had taken it away? It passed in this manner, and was looked upon as a judgment inflicted by permission of Providence on the farmer for his covetousness; the farmer being, in reality, a miserable wretch, who made it his business to get money by all the methods he could, whether lawful or otherwise.

One time Du Vall met with Roper, master of the buck hounds to King Charles II., as he was hunting in Windsor forest. As their rencontre happened in a thicket, Du Vall took the advantage of the place, and commanded him to stand and deliver his money, or else he would shoot him. Mr. Roper, to save his life, gave our adventurer a purse full of guineas, containing at least fifty, and Du Vall afterwards bound him neck and heels, fastened his horse by him, and rode away across the country.

But the proclamation, which we spoke of at the beginning of this life, and the large reward that was promised for taking him, made Du Vall think it unsafe to stay any longer in England; whereupon he retired into France. At Paris he lived very highly, boasting prodigiously of the success of his arms and amours, and affirming proudly, that he never encountered any one person of either sex whom he did not overcome. He had not long been here before he relapsed into his old disease, want of money, which obliged him to have recourse to his wits again. He had an uncommon talent at contrivance, particularly at suiting his stratagems to the temper of the person they were designed to ensnare, as the following instance will prove.

A learned Jesuit, who was confessor to the French king, was as much noted for his avarice, as he was for his politics; by which latter he had rendered himself very eminent. His thirst of money was insatiable; and though he was exceeding rich his desires seemed to increase with his wealth. It came immediately into Du

Vall's head, that the only way to squeeze a little money out of him, was to amuse him with hopes of getting a great deal, which he did in the following manner.

He dressed himself in a scholar's garb, to facilitate his admittance into the miser's company, and then waited very diligently for a proper time to make his address, which he met in a few days. Seeing him alone in the piazza of the Fauxbourg, he went up to him very confidently, and said: "May it please your reverence, I am a poor scholar, who have been several years travelling over strange countries, to learn experience in the sciences, purely to serve my native country, to whose advantage I am determined to apply my knowledge, if I may be favoured with the patronage of a man so eminent as yourself." "And what may this knowledge of yours be?" replied the father: "if you will communicate any thing to me that may be beneficial to France, I assure you no proper encouragement shall be wanting on my side." Du Vall, emboldened by this answer, proceeded: "Sir, I have spent most of my time in the study of alchemy, or the transmutation of metals, and have profited so much at Rome and Venice, from great men learned in that science, that I can change several base metals into gold, by the help of a philosophical powder, which I can prepare very speedily."

The father confessor appeared elated with joy at this relation: "Friend," said he, "such a thing as this will be serviceable indeed to the whole state, and peculiarly grateful to the king, who, as his affairs go at present, stands in some need of such a curious invention. But you must let me see some experiment of your skill, before I credit what you say so far as to communicate it to his Majesty, who will sufficiently reward you, if what you promise be demonstrated." Upon this he conducted Du Vall home to his house, and furnished him with money to build a laboratory, and purchase such other materials as were requisite, in order to proceed in this invaluable operation, charging him to keep the secret from every person, as long as he thought proper; which Du Vall promised to perform.

The utensils being fixed, and every thing in readiness, the Jesuit came to behold the wonderful operation. Du Vall took several metals and minerals of the basest sort,

and put them into a crucible, his reverence viewing every one as he put them in. Our learned alchymist had prepared a hollow stick, into which he had conveyed several sprigs of pure gold, as black-lead is in a pencil. With this stick he stirred the preparation as it melted, which with its heat melted the gold in the stick at the same time; so that it sunk imperceptibly into the vessel. When the excessive fire had consumed in a great measure all the lead, tin, brass, and powder, which he had put in, the gold remained pure to the quantity of an ounce and an half. This the Jesuit caused to be assayed, and finding that it really was fine gold, he was immediately so devoted to Du Vall, and blinded with the prospect of future advantage, that he believed every thing our impostor could say, still furnishing him with whatever he demanded, in the hope of being at last made master of this extraordinary secret; the whole fame, as well as profit of which, he did not question would redound to him, as Du Vall was but an obscure person.

The confessor was as open as Du Vall could wish. He showed him all his treasure, and among it, several rich jewels, which he had received as presents from the king, hoping by these obligations to make him discover his art the sooner. In a word, he grew by degrees, so importunate and urgent, that Du Vall began to apprehend a too close inquiry, if he denied the request any longer; and therefore he appointed a day when every thing was to be communicated. In the mean time he took an opportunity to steal into the chamber where all the riches were deposited, and where his reverence generally slept after dinner, and finding him at that time fast asleep, with his mouth wide open, he gagged and bound him, then took his keys, and hoarded as much of his wealth as he could conveniently carry out unsuspected; and thus bade farewell to both him and France.

Du Vall had several other ways of getting money, besides those already mentioned, particularly by gaming: no man living could slip a card more dexterously than he, nor better understood all the advantages that could be taken of an adversary, yet, to appearance, no man played fairer. He would frequently carry off ten, twenty, thirty, or sometimes an hundred pounds at

a sitting, and had the pleasure commonly to hear it all attributed to his good fortune; so that few were deterred by their losses with him from playing with him a second, third, or fourth time.

He was remarkable for laying wagers, and no less successful in this particular than any of the former. He made it a great part of his study to learn all the intricate questions, deceitful propositions, and paradoxical assertions, that are made use of in conversation. 'Add to this, the smattering he had attained in all the sciences, particularly in mathematics, by means of which, he frequently won considerable sums on the situation of a place, the length of a stick, and a hundred such trifling points, which a man may practice without being liable to any suspicion, or casting any blemish upon his character, as an honest man, or even a gentleman; all which Du Vall affected to appear.

Du Vall was once inclined to try the utmost of his influence over the fair sex; and to this end, he set out upon a progress. It were in vain to pretend to give the reader a catalogue of those that fell victims to his address. Maids, widows, and wives; the rich, the poor, the noble, the vulgar, all submitted to the powerful Du Vall.

How long Du Vall followed his vicious courses in England after his coming from France, before he fell into the hand of justice, is uncertain. At length he was taken when drunk, at the Hole-in-the-Wall, in Chandos-street, committed to Newgate, arraigned, convicted, condemned, and (on Friday the 21st day of January, 1669-70) executed at Tyburn, in the 27th year of his age.

Crowds of ladies, among whom were many of rank, visited him in prison, and interceded for his pardon: and not a few accompanied him to the gallows, under their vizars. After he had hung the usual time, he was cut down, and, by well-dressed persons, conveyed into a mourning coach. In this he was carried to the Tangier Tavern at St. Giles's, where he lay in state that night. The room was hung with black cloth, the hearse covered with escutcheons, eight wax tapers were burning, and as many tall gentlemen attended with

long cloaks. All was in profound silence, and the ceremony would have lasted much longer, had not one of the judges sent a messenger to interrupt the pageantry.

MOSES DRAYNE,

FOR THE MURDER OF THOMAS KIDDERMINSTER. 1663.

THIS unfortunate person was the only son of Walter Kidderminster of Tupsley, in the county of Hereford; but being wronged out of his paternal estate by the intrigues of his stepmother, he was compelled very early in life to enter into the service of the Bishop of Ely, who at length employed him as his steward, till the commencement of the civil war, and the commitment of that prelate to the Tower, for his unshaken loyalty.

Mr. Kidderminster was employed in the management of other gentlemen's estates in Cambridgeshire, till thinking it prudent to convert his property into money, and endeavour to settle upon or sell his estate which he claimed in Herefordshire, after sending his wife to London, who was then pregnant, and telling her he would return in about ten days, he departed from Cambridgeshire through Essex, with a number of writings, taking with him about five or six hundred pounds in gold.

Travelling in a bye-road for safety, Mr. Kidderminster took a guide with him; but on reaching Chelmsford at night, he was discharged. Mr. Kidderminster then put up at the White Horse Inn, where it appears he had lain at other times, and was very well known; but there he was murdered on the same night, in April, 1654. The last place his wife heard of him was Cambridge. Then a report was spread that he was gone to Amsterdam, where she sent to inquire for him, but was assured he was not there. After some time she heard he was at Cork, in Ireland; thither she also sent, and made a most diligent and exact search for him, both in Cork and Munster. Again there was a report that he was in Barbadoes, and they sent to Barbadoes to make inquiries after him. She continued constantly inquiring

after her husband, till her sister one day, in 1662 or 1663, reading the newspaper of the day, suddenly cried out, "Sister, here's news of your husband!" upon which she read in the news to this effect, viz. "That the bones of an unknown person, supposed to be robbed and murdered, were found buried in a back yard in Chelmsford. Whosoever can give notice of any person missing, let them give notice to Mr. Talcott, coroner, in Feering, or to the constable of Chelmsford, or to Mr. Roper, bookseller, over against St. Dunstan's church in Fleet-street;" and upon comparing the time of her husband's being missing, with the time in the newspaper of the supposed murdered body's lying concealed, it appeared to be extremely probable; upon which she immediately went to Mr. Roper's, and by his advice set off for Chelmsford, and for want of conveyance went on foot with a friend.

They proceeded on their journey as far as Stratford, where, a little beyond the town, they lost their way, turning to the left hand of the road. At last they came to Rumford; and by that time being very weary, went into a house at the further end of the town, the sign of the Black Bull, where they accidentally found one Mary Mattocks, who lived at Horn Church.

Mrs. Kidderminster being now very weary, and not able to go on foot any further, inquired whether any horse could be hired in that town. Mrs. Mattocks being present, interposed and answered, that there was no horse to be hired, nor any convenience of coach or waggon to be had upon that day. They asked Mrs. Mattocks how far it was to Chelmsford; she answered, fifteen miles. Mrs. Kidderminster asked her again, whether she knew Chelmsford. She replied, that she did very well, for she was born and bred there. Question—If she knew the White Horse? Answer—Very well, and that one Turner, a very honest man, kept it; but that he that kept it formerly was one Sewell, who if he had had his deserts had been hanged long ago, for there was certainly a gentleman murdered in the house.

Mrs. K. was now induced to make further inquiry, and told Mattocks that her husband was missed much about that time. Mattocks informed her, that the ostler who lived in Sewell's time at the White Horse, now lived

at Rumford. With an intention to gather from him what circumstances she could, she sent for him, but he refused to come; for the messenger having heard part of the discourse communicated it to him, which made him unwilling to come. Mrs. Mattocks then advised Mrs. Kidderminster to go to one Mrs. Shute, her aunt, at the sign of the Cock at Chelmsford, and she could give her such intelligence as would answer her expectation. Upon this, Mrs. Kidderminster and her friend resumed their journey towards Chelmsford. Mrs. Mattocks, after their departure, told the people of the house that a guilty conscience needs no accuser, and that she had heard the ostler had a hand in the business, and had received 60*l.* and a suit of clothes.

Mrs. Kidderminster went directly to the White Horse Inn, where after some conversation with Mr. Turner, then master of the house, he advised them to go to Mrs. Sewell's house, at the Shears, in Colchester-lane. When her friend went out to Mrs. Sewell, and inquired for the White Horse Inn, Mrs. Sewell asked what business he had there; to which he answered, that he was come to inquire about a gentleman that had been murdered there some years ago. To this Mrs. Sewell replied, "Aye, this is Turner's doings; he has put us to great trouble about it already, but I will be avenged on him." They now returned to the White Horse, where Mr. Turner gave his account concerning the discovery, and disinterment of the corpse, viz. that he, Mr. Turner, had pales between his neighbour's meadow and his orchard: a great wind having blown them down, he resolved to make a mud wall; in digging which, they found a skull with all the teeth in it but one, and a hole on the left side of the skull about the size of a crown. Several country people came to see it, who had observed new turf laid upon the place. Upon digging on, they perceived that the corpse had been crammed in double. The coroner sat upon the bones, and the jury found a verdict of murder committed; a blow upon the side of the head was the cause of the person's death. At this time Sewell, who formerly kept the inn, and his wife and two daughters, were alive, and the ostler and maid-servant who lived in their family.

Mr. Turner, to vindicate the reputation of the house,

applied to the justices of the peace of the county, who issued out warrants against Sewell and his wife, who were taken before the justices, but upon their examination they denied all knowledge of the matter, the magistrates, however, bound them to appear at the next assizes, and Mr. Turner was bound to prosecute. Sewell died about a fortnight before the assizes, but it was suspected that he was poisoned by his wife. He shewed visible signs of a troubled mind. He often desired his wife to allow him to speak to some of the chief men of the town, for otherwise he could not die; which his wife would not permit.

At the assizes Mrs. Sewell appeared, and nothing being positively proved against her, she was continued under bail till the next assizes, at which time the lord chief justice, Sir Orlando Bridgman, went the circuit, and finding that no clear account of the person murdered could be ascertained, nor who were the murderers, he ordered that notice should be inserted in the newspapers, at Lent assizes, by which means Mrs. Kidderminster had the first intimation of it.

Mrs. Kidderminster, returning from Chelmsford, made inquiry at Rumford for the ostler, Moses Drayne.

She asked him to describe a man who left his horse behind him when he was ostler at the White Horse, in Chelmsford,—what clothes he wore, for she had some suspicion it might be her husband. He answered, that the gentleman was a tall, big, portly man, with his own hair, dark brown, not very long, curled up at the ends; that he wore a black satin cap, and that his clothes were of a dark grey; which she found agreed with her husband's figure. She then asked him what hat he wore; he replied, "A black one." "Nay," said she, "my husband's was a grey one." At which words he changed colour several times, and never looked up in her face afterwards, but told her, that one Mary Kendall, who had been a servant at Chelmsford at the time of the gentleman's stay there could inform her much better. She now left him; but before she quitted the town she went again to the Black Bull, and spoke to the master of the house, who advised her to speak again with Mrs. Mattocks, for she would be her best evidence. Accordingly the Lord Chief Justice Bridgman was made acquainted with what Mrs. Mattocks could prove;

and he advised her to return again to Rurnford, and get Mrs. Mattocks to make oath before a justice. The Justice Mildmay now issued out a warrant for the apprehension of Moses Drayne, the ostler, who was immediately committed. After which Mrs. Kidderminster found Mary Kendall, who could not be prevailed on to make any discovery. She was, however, traced to London, and was committed to Newgate. Here she was told by the prisoners, that her running away was an argument of guilt, and that therefore she would be hanged; upon which she confessed all to Mrs. Kidderminster, and told her she would not have continued so long in an obstinate denial, but that Sewell's daughters had threatened her, that if she confessed, they would swear against her, and have her hanged first.

Sewell's wife in the meantime died of the plague: but Mrs. Kidderminster, with the special consent of the Lord Chief Justice Bridgman, caused Mary Kendall to be removed from Newgate to Brentwood, the day before the assizes.

On the arraignment of Drayne he pleaded Not Guilty. Mary Kendall gave in evidence,

"That she was a servant-maid in the inn where the gentleman was murdered, and that she, having dressed herself in her best clothes, had leave of her master to go to Kilden, where her father lived; and upon her return home that night, her mistress bid her fetch a pair of sheets, and lay them upon the bed in the room, called the King's Arms. When she came into the room, she found the gentleman standing with his back towards the fire, and with his hands behind him: he drank to her, and made her drink up her glass of beer, and bid her go and fetch him a napkin, to make him a cap. He asked her whether she was the man of the house's daughter, or his maid? she answered, she was his servant. The master and mistress being in the room all this while, and having supped together with the gentleman, he, in the presence of the maid and the mistress, delivered his cloak-bag to the master of the house, and told him there was in it near 600*l.* and writings of considerable value. Then her mistress bid her go to bed, and lie with the younger children in the farther end of the house, that being not her usual lodging, where she was locked in that night, and her mistress unlocked the door in the morning. She said, that between one and two of the clock in the morning, she heard a great fall of something, that it shook the room where she lay, though it was at the furthestmost part of the house. When she came down in the morning, she found her master and mistress, and the ostler, sitting very merrily at the fire, with a flaggon of drink before them, none of them having been in bed that night, nor the two daughters, Betty and Priss, who were appointed to lie in the same room where the maid used to lie. She not seeing the gen-

tleman stirring in the morning, after some time, asked her mistress if the gentleman was gone. "Yes," answered she, "though you were so good a housewife that you could not get up;" and blamed her for lying in bed so long. She asked her mistress whether the gentleman left her any thing. "Yes," said her mistress, "he left you a groat," and put her hand in her purse, and gave it her. "Then," said the maid, "I will go and make clean the chamber." "No," said the mistress, "my daughters and I have set that to rights already; do you what you are about, and then go to your flax-wheel." The chamber door was kept locked for eight or nine weeks afterwards, and no person admitted to enter it but themselves. Once she asked her mistress, why that room was locked, and not kept clean for guests, as usual? The mistress answered, "they had no guests fit for that room, for it was kept for gentlemen."

Some time afterwards, on a Sunday, her master gave her the key to fetch his cloak out of his chest, in his chamber; there she saw the gentleman's suit of clothes, and his cloak-bag, which she saw him deliver to them. About nine weeks afterwards, her mistress sent her up into the room where the gentleman had been murdered, to fetch something, it being the first time she had been in that room since it had been locked. She searched over the room, and looked upon the tester of the bed, and there she saw the gentleman's hat, his hanger, boots, and the satin cap which she took off the gentleman's head, and hanged upon his hat, and laid it upon the table, when she made a cap of the napkin, and put it on the gentleman's head. She took the gentleman's hat, his hanger, boots, and cap, and carried them down to her mistress and the ostler. She asked her mistress—"You said the gentleman was gone to London in a coach; did he go without clothes, or did you lend him some? for I saw his clothes in my master's chest, and these things are his too." The ostler said, "you lie like a w—; those things are mine." The maid answered, "you are a rogue; I am sure they were the gentleman's; I know not whose they are now." Her mistress hearing the maid and the ostler quarrelling, she fell upon the maid, and there arose violent words betwixt them, when her mistress broke her head in three several places, so that the blood ran about her ears. The maid talked the louder, and asked her, "whether she intended to murder her, as she did the gentleman?" Then her master hearing this disturbance, came to them, and persuaded her to hold her tongue and be quiet. She further deposed, that the ostler had from his master 60*l.* of the gentleman's money, for that some short time after the murder, he lent 60*l.* to a woman who kept the Greyhound Inn in the same town; and that that must be the money, for the ostler was worth nothing of his own at the time of the murder; and that the ostler had the gentleman's clothes, which she had seen in her master's chest; and that the ostler sent them to one Clarke, a dyer, in Mobsam, to have them dyed into a liver colour. The dyer asked him, "why he would have the colour altered, since they were of a better colour before?" The ostler answered, that he would have them dyed because he did not like the colour; and that about a twelvemonth after, he dyed the grey hat black. Then she deposed further, that her master raised himself to a good condition on a

sudden; for before, he was so poor, that his landlord would not trust him for a quarter's rent, but would make him pay every six weeks; and that he could not be trusted for malt, but was forced to pay for one barrel under another. That shortly after, they bought a ruined malt-house, and new built it, and usually laid out 40l. in a day to buy barley. There was seen, upon a sudden, a great change in the daughters' condition, both as to their clothes, and otherwise; and if she bought but a hood for one of the daughters, there was a piece of gold changed; and they were observed to have gold in great plenty.

That the ostler carried a grey hat to the hatter's, which being left there after the ostler went away, she went thither and viewed it, and begged the head-lining, which she proved to be of a rainbow colour; as also, that goodwife Shute and she, the said Mary Mattocks, while drying their clothes in the church-yard, Mary Kendall came there also to dry her basket of clothes; and she complained to goodwife Shute, saying, "my mistress, Sewell, has beaten me cruelly to-day, and broke my head in three places, and almost killed me; but I have told her pretty well of her roguery."—"What roguery?" saith goodwife Shute. "It is," said she, "concerning the gentleman they murdered there." "Murdered there!" saith Shute; "dost thou know of any murder done there?" [her kinswoman, Mattocks, going away, she held her by the apron, that she might stay to hear what she would say.] "No, Goody Shute," said she, "I do not know it, but there is a great suspicion of it." She then told them the story,—that in the heat of the quarrel, her master pulled her out of the room, and cried, "Mary, will you leave off prating and be quiet? can't you be quiet, but you must talk at this rate? your mistress is a perverse woman, and I'll give you 20l. and you shall be gone, and live no longer with her." "And," said she, "goody Shute, I have the 20l. and I do intend to be gone." Said goody Shute, "Mary, Mary, take heed what you do; I would give them the 20l. again, and go and acquaint some justices of the peace of it; for the 20l. may hang thee twenty years hence." So they parted. By the next morning all was hushed up at home, and Mary Kendall came to goodwife Shute, and begged of her to say nothing of their yesterday's discourse, for what she had then said, proceeded from passion, or else she had never said it. Said Shute, "if I do not hear it questioned, I shall say nothing of it; but if at any time it comes in question, I will both say it, and make you say so too." But Mary Kendall being examined to this matter at the trial, denied the receiving of the 20l.

There were two women, one of them a washerwoman of that town, and the other a quaker, that lived next house to Mr. Sewell, who both gave evidence at the trial. The washerwoman was going by the house very early, between one and two in the morning, to wash in the town, and the quaker was sitting up for her husband, who was not then come home. They both of them made oath, that about those hours they heard a noise in Mr.

Sewell's house, and a man's voice crying, "what ! will you rob me of my money, and murder me too ? if you take my money, spare my life." Then they heard something that fell very heavy, and a noise as it were of chairs and stools thrown about the room, and all the lights put out, and after that, no further noise was heard.

The next morning these women inquired at the inn what might be the occasion of the noise the night before, for they thought they heard somebody cry out, "murder !" But they were answered, they must be mistaken, for there was no noise there, nor was any person in the house but their own family.

William Denton, Mr. Kidderminster's servant in the Isle of Ely, was produced as evidence to prove the horse and the gentleman's clothes and hat, which he did.

Upon this evidence the jury found Moses Drayne, the ostler, guilty ; and after sentence he was remanded to prison, where he was about to make a sincere confession ; but his wife coming in in the meantime, took hold of him, and bade him hold his tongue and confess no more, for if he died for it he should hang nobody else.

Moses Drayne having confessed that Betty, the eldest daughter, had a share in the murder, and Mary Kendall having sworn at the trial that the two sisters were not in bed that night the murder was committed, moved the coroner to procure a warrant from a justice of the peace to apprehend the two sisters ; which being done, they were bound over to appear at the next assizes. When the assizes came, both the daughters appeared, and a bill of indictment was preferred against them to the grand jury ; against whom Mary Kendall gave the same evidence that she had done before at the trial of Moses Drayne, and also what he had confessed in the prison. But the grand jury thinking the evidence not sufficient to find the bill, returned an *ignoramus*, and the two sisters were discharged by proclamation.

THOMAS BLOOD,
GENERALLY CALLED COLONEL BLOOD;

WHO STOLE THE CROWN FROM THE TOWER OF LONDON.

THIS desperate man was the son of a blacksmith in Ireland; but from other accounts his father appears to have been concerned in iron works, and to have acquired an easy fortune in that kingdom. He was born about the year 1628, and came to England while a young man, and married, in Lancashire, the daughter of Mr. Holcraft, a gentleman of good character in that county. He returned afterwards into Ireland; served as a lieutenant with the parliament forces, and obtained an assignment of land for his pay; besides which, Henry Cromwell put him into the commission of the peace, though scarcely twenty-two years of age. These favours gave him such an inclination to the republican party as was not to be altered; and after the king's restoration some accidents contributed to increase his disaffection to the government. Upon associating a little with the malecontents, he found his notions exactly justified, and that there was a design on foot for a general insurrection, which was to be begun by surprising the castle of Dublin, and seizing the person of the duke of Ormond, then lord lieutenant. Into this scheme he entered without any hesitation; and though many of the persons involved in the dangerous undertaking were much his superiors in rank, yet he was very soon at the head of the affair, presided in all their councils, was the oracle in all their projects, and generally relied on in the execution of them. But, on the very eve of its execution, the whole conspiracy, which had been long suspected, was discovered. His brother-in-law, one Lackie, a minister, was, with many others, apprehended, tried, convicted, and executed; but Blood made his escape, and kept out of reach, notwithstanding the duke of Ormond, and the earl of Orrery, laboured to have him secured, and a proclamation was published by the former with the promise of an ample reward for apprehending him.

He found means to get over into Holland, where he was well received, and admitted into great intimacy with some of the most considerable persons in the re-

public, particularly Admiral de Ruyter. He went from thence to England, with such recommendations to the fifth-monarchy men, and other malecontents, that he was immediately admitted into all their councils, and had a large share in all dark intrigues that were then carrying on for throwing the nation again into confusion. In this situation he gave another strong instance of his bold and enterprizing genius; but finding the government apprized of their designs, and foreseeing that the persons principally concerned could not escape being apprehended, he resolved to withdraw into Scotland, where he so wrought upon the discontents of the people, that he contributed not a little to the breaking out of the insurrection there, and was present in the action of Pentland-hills, November 27, 1666, in which the insurgents were routed and about five hundred killed. He fled, after this defeat, back to England, and from thence to Ireland, where he landed within three miles of Carrickfergus; but Lord Dungannon pursued him so closely, that he was obliged to retire into England. He had not been long in this kingdom before he performed a fresh exploit, which was as extraordinary, more successful, and made greater interest in the world than any thing he had yet done. This was the rescue of his friend captain Mason from a guard of soldiers, who were conducting him to his trial at the assizes.

Whether his next enterprize was entirely of his own contrivance, is a point not to be decided; it was seizing the person of his old antagonist, the duke of Ormond, in the streets of London; but whether with a view to murder, or carry him off till he had answered their expectation, is not perfectly clear. He actually put his design in execution, December 6, 1670, and was very near completing his purpose. However, the duke was fortunately rescued out of his hands; but himself and his associates escaped, though closely pursued. An account of this transaction was immediately published by authority, together with a royal proclamation, offering a reward of one thousand pounds for apprehending any of the persons concerned.

The miscarriage of this daring design, instead of daunting him, or creating the least intention of flying out of the kingdom, put him on another more strange

and hazardous scheme to repair his broken fortunes. He proposed to those desperate persons who assisted him in his former attempt, to seize and divide amongst them the royal insignia of majesty kept in the Tower of London; viz. the crown, globe, sceptre and dove; and as they were blindly devoted to his service, they very readily accepted the proposal, and left it to him to contrive the means of putting it into execution.

He devised a scheme of putting himself into the habit of a doctor of divinity, with a little band, a long false beard, a cap with ears, and all the formalities of garb belonging to that degree, except the gown, choosing rather to make use of a cloak, as most proper for his design. Thus habited, he, with a woman whom he called his wife, went to see the curiosities in the Tower; and while they were viewing the regalia, the supposed Mrs. Blood pretended to be taken suddenly ill, and desired Mr. Edwards (the keeper of the regalia,) to assist her with some refreshment.

Mr. Edwards not only complied with this request, but also invited her to repose herself on a bed, which she did, and after a pretended recovery, took her leave, together with Blood, with many expressions of gratitude.

A few days after Blood returned, and presented Mrs. Edwards, the keeper's wife, with four pair of white gloves, in return for her kindness. This brought on an acquaintance, which being soon improved into a strict intimacy, and a marriage was proposed between a son of Edwards, and a supposed daughter of Colonel Blood.

The night before the 9th of May 1671, the doctor told the old man, that he had some friends at his house that wanted to see the regalia, but that they were to go out of town early in the morning, and therefore hoped he would gratify them with the sight, though they might come a little before the usual hour. [In this enterprize Blood had engaged three accomplices, named Desborough, Kelfy and Perrot.] Accordingly two of them came, accompanied by the doctor, about eight in the morning, and the third held their horses that waited for them at the outer gate of the Tower ready saddled: they had no other apparatus but a wallet and a wooden mallet, which there was no great difficulty to secrete.

Edwards received them with great civility, and imme-

diately admitted them into his office; but as it is usual for the keeper of the regalia, when he shews them, to lock himself up in a kind of grate with open bars; the old man had no sooner opened the door of this place, than the doctor and his companions were in at his heels, and without giving him time to ask questions, silenced him, by knocking him down with the wooden mallet. They then instantly made flat the bows of the crown to make it more portable, seized the sceptre and dove, put them together into the wallet, and were preparing to make their escape; when unfortunately for them, the old man's son, who had not been at home for ten years before, returned from sea at the very instant; and being told that his father was with some friends who would be very glad to see him at the jewel-office, he hastened thither immediately, and met Blood and his companions as they were just coming out; who, instead of returning and securing him, as in good policy they should have done, they hurried away with the crown and globe, but not having time to file the sceptre, they left it behind them.

Old Edwards, who was not so much hurt as the villains had apprehended, by this time recovered his legs, and cried out murder, which being heard by his daughter, she ran out and gave an alarm; and Blood and Perrot, making great haste, were observed to jog each other's elbows as they went, which gave great reason for suspecting them.

Blood and his accomplices were now advanced beyond the main-guard; but the alarm being given to the warder at the draw-bridge, he put himself in a posture to stop their progress. Blood discharged a pistol at the warder, who, though unhurt, fell to the ground through fear; by which they got safe to the little ward-house gate, where one Still, who had been a soldier under Oliver Cromwell, stood centinel; but though this man saw the warder to all appearance shot, he made no resistance against Blood and his associates, who now got over the draw-bridge, and through the outer gate upon the wharf.

At this place they were overtaken by one Captain Beckman, who had pursued them from Edwards's house. Blood immediately discharged a pistol at Beckman's

head; but he stooping down at the instant, the shot missed him, and he seized Blood, who had the crown under his cloak. Blood struggled a long while to preserve his prize; and when it was at length wrested from him, he said, "It was a gallant attempt, how unsuccessful soever; for it was for a crown!"

Before Blood was taken, Perrot had been seized by another person; and young Edwards observing a man that was bloody, in the scuffle, was about to run him through the body; but was prevented by Captain Beckman.

Upon this disappointment his spirits failed him; and while he remained a prisoner in the gaol of the Tower, he appeared not only silent and reserved, but dogged and sullen. He soon changed his temper, however, when, contrary to all reason, probability, and his own expectation, he was informed the king intended to see and examine him, himself. This was brought about by the duke of Buckingham, then the great favourite and prime minister, who infused into his majesty, (over whom he had for some time a great ascendancy,) the curiosity of seeing so extraordinary a person, whose crime, great as it was, displayed extraordinary force of mind, and made it probable, that, if so disposed, he might be capable of making great discoveries. He is allowed on all hands to have performed admirably on this occasion: he answered whatever his majesty demanded of him, clearly, and without reserve; he did not pretend to capitulate or make terms, but seemed rather pleased to throw his life into the king's hands by an open and boundless confession. He took care, however, to prepossess his majesty in his favour by various, and those very different, methods. At the same time that he laid himself open to the law, he absolutely refused to impeach others. While he magnified the spirit and resolution of the party to which he adhered, and had always acted against monarchy, he insinuated his own and their veneration for the person of the king; and though he omitted nothing that might create a belief of his contemning death, yet he expressed infinite awe and respect for a monarch who had condescended to treat him with such unusual indulgence.

It was foreseen by the duke of Ormond, as soon as he knew the king designed to examine him, that Blood had

no cause to fear; and indeed his story and behaviour made such an impression on the mind of his sovereign, that he was not only pardoned, but set at liberty, and had a pension given him to subsist on. This conduct of his majesty towards so high and so notorious an offender, occasioned much speculation, and many conjectures.

His interest was for some time very great at Court, where he solicited the suits of many of the unfortunate people of his party with success: but as this gave great offence to some very worthy persons while it lasted, so, after the disgrace and dissolution of the ministry, styled the Cabal, it began quickly to decline, and perhaps his pension also was ill paid; for he again joined the malecontents, and acted in favour of popular measures that were obnoxious to the court.

In this manner he passed between nine and ten years, sometimes about the court, sometimes excluded from it, always uneasy, and in some scheme or other of an untoward kind, till at last he was met with in his own way, and either circumvented by some of his own instruments, or drawn within the vortex of a sham plot, by some who were too cunning for this master in his profession. It seems there were certain people, who had formed a design of fixing an imputation of a most scandalous nature upon the duke of Buckingham, who was then at the head of a vigorous opposition against the court, and who, notwithstanding he always courted and protected the fanatics, had not, in respect to his moral character, so fair a reputation as to render any charge of that kind incredible. But whether this was conducted by Col. Blood, whether a counter-plot was set on foot to defeat it, and entrap Blood, or whether some whisper thrown out to alarm the duke, which he suspected came from Blood, led his grace to secure himself by a contrivance of the same stamp, better concerted, and more effectually executed, is uncertain; but his grace, who was formerly supposed a patron of the colonel, thought it requisite, for his own safety, to contribute to his ruin. The notion Blood induced the world to entertain of this affair, may be discovered from the case which he caused to be printed of it; but it fell out that the Court of King's Bench viewed the affair in so different a light, that he was convicted upon a criminal informa-

tion for the conspiracy, and committed to the King's Bench prison; and while in custody there, he was charged with an action of scandalum magnatum, at the suit of the duke of Buckingham, in which the damages were laid at ten thousand pounds. Notwithstanding this, Colonel Blood found bail, and was discharged from his imprisonment. He then retired to his house in the Bowling-alley, in Westminster, in order to take such measures as were requisite to free himself from these difficulties; but finding fewer friends than he expected, and meeting with other and more grievous disappointments, he was so much affected thereby, as to fall into a distemper that speedily threatened his life. He was attended in his sickness by a clergyman, who found him sensible, but reserved, declaring he was not at all afraid of death. In a few days he fell into a lethargy, and Wednesday, August 24, 1680, he departed this life. On the Friday following he was privately, but decently, interred, in the new chapel in Tothill-fields. Yet such was the notion entertained by the generality of the world of this man's subtlety and restless spirit, that they could neither be persuaded he would be quiet in his grave, nor would they permit him to remain so; for a story being spread that this dying, and being buried, was only a new trick of Colonel Blood's, preparatory to some more extraordinary exploit than any he had been concerned in, it became in a few days so current, and so many circumstances were added to render it credible, that the coroner thought fit to interpose, ordered the body to be taken up again on the Thursday following, and appointed a jury to sit upon it. By the various depositions of persons attending him in his last illness, they were convinced, and the coroner caused him to be once more interred, and left in quiet.

MARY MARGARET D'AUBRAY, MAR-
CHIONESS DE BRINVILLIER,

CONVICTED OF HAVING POISONED HER FATHER AND
TWO BROTHERS, AND MADE AN ATTEMPT UPON THE
LIFE OF HER SISTER, 16th OF JULY, 1676.

THE Marchioness de Brinvillier, who is the subject of this narrative was the daughter of M. Dreux d'Aubray, Lieutenant Civil. In 1651, she was married to the Marquis de Brinvillier, son to M. de Gobeling president of the chamber of accompts. Their fortune was answerable to their birth, for the marquis had an estate of 30,000 livres a year, and she brought him a fortune of 200,000 livres.

The Marquis de Brinvillier was a colonel in the Normandy regiment. During the war he became acquainted with the Sieur Godin, commonly called St. Croix, who had been a captain of horse in Trasse's regiment. He was the natural son of a distinguished family, but durst not assume his father's name, for fear of revealing the infamy of his birth. He was one of those whose souls are formed susceptible of every vice, and who at the same time have the art to conceal the worst characters under a specious imposing exterior. This man introduced by the marquis into his house; where he lived as the husband's friend, but soon became the particular friend of the lady also, and by degrees her most passionate lover. The marquis was so dissipated and heedless, that he took no notice of St. Croix's conduct. The gallant had the address to make himself the companion of the lady, who was soon obliged to sue for a separation of effects, as her husband's affairs were in an unsettled state, through his mismanagement. This separation she obtained, and it gave her the means entirely of shaking off all dependence upon the marquis; the consequence whereof was that she no longer had any restriction on her passion.

Nature had endued this noted criminal with a liberal share of those graces which adorn her sex.

Her features were just and regular; the make of her face, which was round, extremely graceful; her stature of the middling size; her air calm and serene, and such as, according to the rules of physiognomy, spoke a virtuous mind. But nothing more strongly proves the falsehood of that science, than the example of this woman. This fair outside veiled a soul hideously black and deformed.

Her unlawful connection with St. Croix became so public, that M d'Aubray, her father, seeing the insensibility of the husband, was obliged to obtain a *lettre de cachet*, empowering him to arrest St. Croix; which accordingly was executed, when he was with the marchioness in her coach; and he carried them directly to the Bastile. The reader will easily imagine the confusion and perplexity of these two thoughtless lovers, when thus suddenly torn from each other's embraces, and abandoned to the shame and remorse of a criminal passion, to which they had entirely devoted themselves. St. Croix, during his confinement, became acquainted with one Exili, an Italian artist in poisons, who taught him his accursed science, of which he afterwards made so pernicious an use.

After he had been about a year in prison, he regained his liberty; and Exili being released at the same time, St. Croix took him home with him, that he might accomplish himself in that execrable art, under his direction. At the same time he renewed his intrigue with the marchioness; but grown more circumspect from experience, they took care to save all appearances. She had even the address to insinuate herself again into her father's good graces. St. Croix instructed her in the dangerous secrets which Exili had communicated to him. Revenge, lust, and avarice urging them both on, she was wrought up to a determined resolution, in defiance of all the sentiments of nature, to poison her father and his whole family.

The benefit they proposed to reap from these poisonings, was, that the marchioness should be heiress to her father's fortune, and that of his whole family. And as St. Croix was in possession of the lady's heart, he flattered himself that he should likewise be master of her immense wealth.

She made several experiments with the poisons made up by St. Croix; particularly in biscuits which she poisoned, and gave to the poor, taking care to ascertain herself the effects they produced. She even went in person to the Hôtel-Dieu, to distribute these biscuits. She tried their virtue likewise upon her chamber-maid Frances Russel, by giving her poisoned gooseberries, and a slice of bacon with the same seasoning; from which the maid with great difficulty recovered.

Her father happened, at this time, to go to his country-seat: here it was she consummated her crime, by putting poison into the broth which she presented to him. The effect thereof was so violent, that he was taken with extraordinary vomitings, grievous pains in the stomach, and strange heats in the bowels.

M. d'Aubray was obliged at this time to return to Paris, where the strength of the poison very soon got the better of his constitution. The cause of his death was not then found out; which emboldened the marchioness to make an attempt upon the lives of her two brothers.

The Marchioness was one evening at an entertainment, where having drank rather freely, she retired to repose herself in her chamber, where finding a woman who frequented the house, she had the imprudence to show her a box which she took from her casket, and to say, "I have here wherewithal to be avenged of my enemies; within this are heritages enough." The woman saw in the box sublimate in powder, and in paste, which she recognized; being the daughter of an apothecary. Seven or eight hours after, when she recovered herself, and began to recollect what had passed, she told the maid, who repeated her words, that she had spoken wildly and at random. The casket she kept with great care; and said to the same woman some time after, "I charge you, if I die, to throw this casket into the fire." She was once overheard to say, when she was under great anxiety, that she would poison herself. And when she happened to be provoked against any one, she would say, there were certain ways to get rid of people who were troublesome, and that she could do as much execution in a mess of broth, as others with a pistol bullet.

The marchioness and St. Croix resolved to make use of a worthless fellow, whose character they knew, as

their agent to poison her two brothers. The name of this wretch was la Chaussee, he had been St. Croix's footman, and in that school trained up to vice. The marchioness had interest enough to introduce him into the service of her brother a counsellor, who lived with her other brother, the Lieutenant Civil, without their being aware of his previous connection with St. Croix.

This varlet, won with the promise of an hundred pistoles as the reward of his villainy, and with the assurance of being taken care of for the rest of his life, came presently into their measures, and having put the poison they gave him into a glass of wine and water, presented it to the Lieutenant-Civil at dinner. No sooner had he drank of it, than he cried out, "Villain, what have you given me, I believe you have a design to poison me." What remained in the glass he presented to his secretary, who having tasted it in a spoon, perceived a bitterness in it, and the smell of vitriol. La Chaussee excused himself, by saying the counsellor's valet de chambre had taken some medicine out of that glass, which gave it a bad taste; so, without examining any farther into the affair, he was severely reprimanded for his negligence.

In April, 1670, the Lieutenant-Civil having gone into Beause, to his estate at Villequoy, there to pass the Easter holidays, and the counsellor being of the party, they took La Chaussee with them. At dinner there was served up a cock's-comb pasty, whereof those who eat, who were seven in number, and among the rest the two brothers, were all taken very ill. The Lieutenant-Civil and his brother were seized with severe vomitings; and on their return from Villequoy to Paris, the former looked like one who had been under a long fit of sickness. The 20th of April, St. Croix, who was willing to secure the fruit of his villainy, insisted with the marchioness for a promise of 1500 livres.

The lieutenant-civil grew still worse and worse; and after languishing a long time, nature being quite worn out, he died, 17th June, 1670. The three last days he was extremely emaciated, complained of a prodigious drought, and of a violent heat in his stomach. Upon opening his body, they found that part and the duodenum black, ready to crumble to pieces, and the liver gangrened and scorched up. All were then convinced

that he had been poisoned, but the matter was not traced to its source. St. Croix wrote to the marchioness, who was in the country, an account of what had happened, and that the counsellor's illness portended he would not be long after his brother. The symptoms of his distemper, which lasted three months, were the same as those of the Lieutenant-Civil, and he died in the same wretched suffering. His stomach and liver, when he was opened, were found precisely in the same state. Yet so far was he from entertaining any suspicion of being poisoned by La Chaussee, that he left him a legacy of a hundred crowns.

To complete the designs of this infamous woman, nothing now remained but to poison Miss d'Aubray her sister. But in this last attempt she proved unsuccessful, the fate of the rest of the family having, it would seem, put that lady upon her guard. Yet, notwithstanding the violent suspicions she had of the marchioness, she was so generous as to relieve her in her misfortunes, by sending her supplies of money, even when she was in her hiding place.

These sudden deaths, with all the circumstances that pointed to the cause of them, having become the subject of public conversation, it was no longer doubted but that the father and his two sons had been poisoned; but there were only some vague suspicions, as to the authors of the crime, which La Chaussee had the good fortune to escape.

St. Croix, after all these horrid effects of his poison, was still meditating new villanies, and for that end was making daily experiments in his accursed art. One day, while he was thus employed, the glass vizor he wore to secure him against the fumes of his pernicious drugs, dropped off, and he was stifled upon the spot; thus he perished by the effects of his own execrable devices. As he happened to die among strangers, who knew none of his relations, the commissary was sent for to seal up the apartment of the deceased. In taking the inventory of his effects, there was found a casket, which being opened, the first thing that presented itself was a sheet of paper, wherein the following words were written:

"I most humbly request those, into whose hands this casket may fall, that they would be pleased to deliver it into the Marchioness

de Brinvillier's own hand, who lives in the New Street, St. Paul, in regard that every thing therein concerns her, and belongs to her alone, and can be of no use to any person in the world besides.

"And in case she shall die before me, I desire it may be burnt, with all that is in it, without opening or meddling with its contents. And in order that none may pretend ignorance, I swear by the God whom I adore, and by all that is held most sacred, that I averr nothing but the truth. And if they dare to act contrary to these my just and reasonable intentions, I charge it on their consciences both in this world, and that which is to come, for the discharge of my own, protesting that this is my last will. Given at Paris, the 25th of May afternoon, 1672. Signed St. Croix. And below were these words : A packet addressed to M. Penautier, which must be delivered."

The following is a list of the drugs that were found in the casket :

I. A packet sealed with eight seals, charged with different coats of arms, whereon was written : "papers to be burnt, in case of death, being of no consequence to any person. I most humbly supplicate those into whose hands they may fall to burn them. I even charge it upon their consciences, and that without opening the packet."

In this packet were found two others filled with sublimate.

Item.—Another packet sealed with six seals of different coats of arms, whereon the like inscription was written, and in it contained a quantity of sublimate to the weight of half a pound.

Item.—Another packet sealed with six seals of sundry coats of arms, and the same inscription upon it ; wherein were found three other packets, with half an ounce of sublimate in one, two in another, with a quarter of a pound of Roman vitriol, and in the third, vitriol calcined and prepared.

In the same casket was found a large square vial, containing a pint of clear water, which being shown to M. Moreau the physician, he declared he was not able to say what were its properties, until he had made trial of it.

Item.—Another vial, containing a gallon of clear water, and at the bottom of it a whitish sediment. As to which M. Moreau gave the same opinion as of the former.

Item.—A little gally-pot, containing two or three drams of prepared opium.

Item.—A folded paper, wherein were two drams of corrosive sublimate in powder.

A little box, wherein was found a kind of stone called *Lapis infernalis*.

A paper containing an ounce of opium.

A piece of the regulus of antimony, weighing three ounces.

A packet of powder, upon the cover of which was written : "To stop an issue of blood in women." The Sieur Moreau said it was the flower and bud of quinces dried.

Item.—There was found a packet sealed with six seals, whereon was written the same inscription as above, and in it contained

twenty seven papers, on each of which was inscribed several curious secrets.

Item.—Another packet with six seals, and the same inscription; wherein were found seventy five pounds of sublimate, addressed to sundry persons.

St. Croix must needs have made himself very perfect in this diabolical art, since the last compositions he had made up for the marchioness, as we may judge from the report of the physicians who were appointed to examine the poisons found in his casket. One of them descants upon the nature of them in the following manner:—

This artificial poison is so disguised, that there is no coming at the knowledge of it by experiment; so subtle, that it mocks the art and capacity of physicians. The surest and most common experiments are made by the elements, or upon animals.

In water, the weight of the poison makes it subside and go to the bottom; in fire it evaporates, and leaves only a sharp acrimonious matter, which alone résists its impression.

The effects which poison produces upon animals, are still more perceptible. It diffuses its malignity through all the parts, and vitiates whatever it touches; it burns up the bowels with a strange and violent heat.

The poison of St. Croix has undergone all these trials, it surmounts the physician's art, and defies all their experiments. This poison swims in water; it contradicts the experiment by fire, by leaving nothing but a sweet harmless matter. In animals it conceals itself with so much art, that there is no knowing it; at the same time that it procures certain death, it leaves the image and signs of life.

It has been put to all sorts of proofs; the first was by pouring some drops of a certain liquor out of one of the vials into the oil of tartar and sea-water. Nothing subsided to the bottom of the vessels, into which the liquor was poured.

The second experiment was made by putting some of the same liquor into a vessel covered with sand; no material acid to the taste was found upon the sand. The third experiment was upon a Turkey hen, a pigeon, and a dog; all three died some time after, and being opened the next day, there was nothing found but a little clotted blood in the ventricles of the heart.

A fourth experiment was of a white powder given to a cat in a sheep's pluck; the cat vomited for half an hour, and the day after was found dead; upon opening the animal, no part of it was found altered by the poison. A second experiment with the same powder having been made upon a pigeon, it died thereof some time after, and when it was opened, there was nothing found but a little reddish water in the stomach.

In St. Croix's casket were found several letters in a warm passionate strain, which the marchioness had written to him, the following is one of the most extravagant:

I thought it proper to put an end to my life, and for that purpose have taken some of what you gave me of so great value; it is some of Glazier's receipt, and you will see by this that I willingly sacrifice to you my life. But I give you no promise before I die to meet you in a certain place, to take a last adieu.

It is probable she imposed upon St. Croix, when she sent him word that she had poisoned herself. Lovers are apt enough, in the sallies of passion, to make such desperate resolutions, but a little sober reflection commonly brings them to themselves, and prevents their putting such resolutions in practice.

There was likewise found in the casket, the promissory note for 1500 livres, which the Marchioness had given to St. Croix. That lady was not a little alarmed when she heard that there was a seal put upon his effects. She neglected no means that could be used to get the fatal box into her hands, insomuch that she even attempted to bribe the commissary; but all her efforts were in vain. When she understood that St. Croix had mentioned her as the person who had a right to claim the casket, she determined, by the advice of her relations, to make her escape: accordingly she set out by night for Picquepus, where she lodged, and fled for refuge into a foreign kingdom.

La Chaussee had the impudence to enter into a protestation against the sealing up of St. Croix's effects: therein he declared that he had served the deceased seven years, and had given him in trust two hundred pistoles, and an hundred crowns, which were deposited in a linen bag, behind the closet window, with a note acknowledging the money to be his, and several other papers relating to his affairs, which sums and papers he claimed. This imprudent step of La Chaussee fixed the suspicion of guilt upon him, which he had hitherto escaped.

As for the Marchioness, while she went abroad to shelter herself from justice, her proctor appeared before the commissary, and gave in a declaration in her behalf, to the following effect:—

That if in the casket of St. Croix there is found a promissory note signed by the Marchioness of Brinvillier, for the sum of 1500 livres, it is a promise into which she was trepanned, and therefore she intends to have recourse to such means as the law directs for its being declared null and void.

La Chaussee being informed of the discoveries that had been made by the commissary, was betrayed by the

pangs and remorse of his guilty conscience, which he could not hide. He was apprehended and indicted at the instance of the late Lieutenant-Civil's widow. After hearing of the case, he was adjudged to the torture. From this iniquitous judgment, which might have saved La Chaussee, had he confessed nothing upon the rack, the lady thought fit to enter an appeal. When the cause was brought before the parliament, the judges found sufficient evidence to condemn him. The sentence was pronounced at the Tournelle, the 4th of May, 1673, whereby La Chaussee was adjudged, as convicted and attainted of having poisoned the late Lieutenant-Civil, and the Counsellor, to be broke alive and expire upon the wheel, after being put to the torture ordinary and extraordinary, for the discovery of his accomplices. The Marchioness was declared an outlaw.

La Chaussee confessed upon the rack, that St. Croix told him he had received poison from the Marchioness De Brinvillier, to poison her two brothers; that he gave it them in water and broths, and put a reddish water into the glass he presented to the Lieutenant-Civil, and clear water into the pastry that was served up at Villequoy; adding, that he had a promise from St. Croix of an hundred pistoles, and to be kept by him for life. He declared further, that he had communicated to St. Croix the effects of the poisons which he had received from him at several times, and was told by him that the lady Brinvillier was a stranger to their practices. St. Croix, it seems, had a mind to be sole master of the marchioness's secret; but sure he must have forgot that he had told La Chaussee, it was she had given him the poisons.

La Chaussee added, that for his part he could not help thinking the marchioness was not unacquainted with their criminal practices, because she was always speaking to him of poisons, and urged him to fly after the death of her two brothers, and even gave him money for that purpose. Farther, that St. Croix had a great mind to poison Miss d'Aubray the marchioness's sister; and sought to obtrude a domestic upon her, who was capable of committing that crime. This confession gives ground to believe that La Chaussee renewed his attempt to

poison the two brothers oftener than once. The poor wretch was executed as his crimes deserved.

What gives us a perfect idea of the depravity of this miscreant's heart, is the manner which he spoke of M. d' Aubray the counsellor his master, when he was asked about his health. "He wears well," said he, giving him a coarse epithet, full of disrespect, "he gives us a good deal of trouble, I know not when his tough heart will break." And when after his demise he had helped to put him in his winding-sheet. "He is dead," says he, giving him the same epithet, "I am just come from winding him up; I have turned him, and turned him, which is more by half than I would have done for him, had he been alive." This is the man to whom his master left a legacy of an hundred crowns.

Every body was persuaded that the marchioness was guilty. People had conceived such a horrid idea of her crimes that they could not pronounce her name without being shocked. She had fled for refuge to Liege, and there thought herself in an inviolable sanctuary. But though sovereigns claim it as a privilege to protect criminals of other nations within the bounds of their jurisdiction, it is agreed that murderers and false coiners shall be excluded from this favour.

Desgrais, exempt of the marshalsea, was dispatched to Liege, in order to arrest the marchioness. He was accompanied with several archers, and furnished with a letter from the king, addressed to the council of sixty in that city, wherein his majesty claimed that criminal to be given up to justice. Desgrais brought with him an extract of the process which proved her to be guilty of poisoning several persons. The council examined the process, and after they were informed of the case, permitted Desgrais to seize the marchioness. That he might not be frustrated of his design, he did not offer to apprehend her in the convent to which she had retired; being afraid of raising an insurrection in the city, by means whereof his prey might be ravished from him. He passed himself upon her under the disguise of a French abbé, who was come to see her out of curiosity; paid her several visits, spoke to her the language of love; to which she readily listened, and at length engaged to

go out of the city with him an airing. Then the gallant all of a sudden transformed himself into an Exempt; having arrested the marchioness, he delivered her into the custody of his officers, and returned to the convent, which he entered by virtue of an order he obtained from the council of sixty. Under the marchioness's bed he found a casket which she in vain begged to have returned. She laid extremely to heart a paper that was in it, which she called her confession; it consisted of fifteen or sixteen sheets, being the memoir of her whole life. In the first article, she accuses herself of having set fire to an house: in another, she confesses that she had suffered herself to be debauched at the age of seven years. In fine, she accuses herself not only of all the crimes that were laid to her charge, but of many others whereof she was not in the least suspected.

She put trust in one of the archers, who betrayed her: she had given him, immediately upon her being apprehended, a letter to carry to a man of her acquaintance, named Theria, whom she entreated to come with speed, to rescue her out of the hands of Desgrais and his officers. The same archer she trusted with a second letter, to the same man, informing him that the whole guard consisted but of eight persons, whom five men could easily overpower: and then with a third, wherein she again solicits him to come, desiring him that if he could not rescue her by open force, he would at least kill two of the four horses that drew the coach she was in, and in the fray carry off the casket, and throw it into the fire, otherwise she was undone.

Though Theria received none of these letters, he came of his own accord to Maestricht, through which town he knew the marchioness was to pass, and endeavoured in vain to bribe the officers, by offering them a thousand pistoles, if they would let her escape.

When all other means failed her, she attempted to kill herself by swallowing a pin; but one of the guards prevented the execution of her design.

The king required that the parliament should dispatch M. Palluan, counsellor of the great-chamber, to Rocroy, there to interrogate Madam de Brinvillier, and not defer the doing it till he came to Paris. Some alledge it was because the whole judges were allied to that infamous

criminal. But the true reason I believe was, that she might not have time to premeditate her answers. The order was executed.

When she was brought to the Conciergerie* at Paris, a letter was intercepted which she wrote to the *Sieur Penautier*, wherein she told him, how much she apprehended her life to be in danger: at the same time giving him an account how she was resolved to behave in the trial; that she would dissemble all, and confess nothing; and concluded by asking his advice, and that he would employ his own interest, and that of his friends, in her behalf.

In fact, she had denied all in her examination, she disowned the letters she had written since her being arrested, nor would acknowledge she knew any thing of *St. Croix's* casket that was shewn her. She declared, that if she had given *St. Croix* a promise of 1500*l.* it was only to entitle him to appear among her creditors, that he might manage them for her interest; that she had got a writing from him to indemnify her, but unhappily lost it upon the road.

M. Nivelles, a celebrated advocate, drew a brief in her defence; and therein treated the question, Whether a confession written by a person accused, in order to be revealed to a confessor, can be brought in evidence against him. Before he entered into a discussion of this question, he endeavours to prepossess the mind of the reader in favour of his client. He says, *St. Croix* was the demon who had raised the storm, and overturned the peace of the marchioness's family, abusing the ascendant he had over the marquess to make himself necessary to his lady; he blames her, indeed, for putting confidence in such a ruffian; but, at the same time, excuses her, because she knew him not thoroughly, and was imposed upon by his artful disguises. He observed that *St. Croix*, incensed against *M. d' Aubray's* family for putting him in prison, was prompted by a spirit of revenge to poison the two brothers, by the agency of *La Chaussee*, who did not let the marchioness into the secret; and moreover, that he had formed a design to make himself master of all the riches of the family, by bringing them into the hands of

* The jail belonging to the Parliament.

the marchioness, of whom he flattered himself to have the absolute government. He recites in a few words, the sad fate of La Chaussee, who fell a victim to his own crimes, and those of his master. As to the marchioness's flying, he alledges it was only to be free from the prosecution of her creditors, who came upon her without mercy, when they heard she was included in the accusation. He comes next to the justification of his client, and observes, there are two sorts of proof offered against her, viz. by testimony, and by writing; that the crimes whereof the defendant is accused, require so much the stronger proof, as they are of a most atrocious nature, and consequently the more incredible; and as they are charged upon a person of distinguished birth, whose education raises her above all suspicion: that even vulgar minds shrink back from crimes so shocking and enormous; how much more is it to be presumed, that a person of quality, trained up to a high sense of virtue and honour, will triumph over all temptations to such heinous acts of wickedness.

He next attacked the proofs by testimony. He finds only three witnesses who are worthy of any regard; one of them was Serjeant Cluct, who had deposed, that the marchioness said, her eldest brother was good for nothing; that if she had pleased, she might have had him assassinated by two gentlemen in his way to Orleans, when he was intendant there; that she would have given fifty louis d'ors to have her casket after St. Croix's death; had done all that lay in her power to get it into her hands while he lived; and that, if she had got it, she would immediately have caused St. Croix's throat to be cut.

Here the advocate observes, how improbable it is that the marchioness would enter into a conversation of this sort with so pitiful a fellow; that as for the eagerness she had shewed to have her casket, it ought to be ascribed to the pressing occasion she had for the papers she believed to be contained therein. He is at great pains to shew, that no stress ought to be laid upon the other two witnesses, who not deposing upon ocular testimony, utter only mere conjectures, on which no certain judgment can be formed.

As to the supposed intimacy between the marchioness and St. Croix, granting it to be true, nothing could be

proved from it in support of the charge: because that lady had indulged herself in a criminal amour, does it therefore follow that she was guilty of the horrid crimes of poisoning and murder.

M. Nivelles seems to lay great stress upon the dying words of La Chaussee, who declared St. Croix had said to him, that the marchioness was a stranger to their criminal practices. To give the more weight to this confession, we are to remark, says Nivelles, that the truth which criminals have suppressed before, generally comes to light in those critical moments, when they have the near prospect of appearing before the awful tribunal of the Almighty: all human considerations of hope or fear, love of life or respect of persons, then vanishing away like so many shadows before the sun.

With respect to the paper found in the casket, wherein St. Croix declared that casket to belong to the marchioness, our advocate undertakes to prove, from the date of the paper itself, compared with those of the inscriptions of the poisons, that they must have been put there after this paper was written. And as to the direction St. Croix had given in that paper, to burn the casket, in case the marchioness should die before him; he alledged, that the intent thereof was to save the lady's honour, by preventing the appearance of several of her love letters, which were contained in that casket. On these same letters M. Nivelles grounds a strong presumption of his client's innocence of the crimes laid to her charge, because she therein so freely discloses all the secrets of her heart; that had she been privy to the poisoning of her brothers, it is not to be imagined she would have omitted to mention it; consequently, her silence on the head is the strongest evidence of her innocence that the nature of the thing will admit of.

These points premised, the orator comes next to that fatal confession, which discloses all the horrid scenes of the marchioness's life.

In this confession, which begins with these words—"I confess to Almighty God, and to you my father," she accuses herself of having poisoned her father, her two brothers, and attempted to poison her sister.

This accusation, M. Nivelles will not allow to be of any weight in a court of justice, because the law, which im-

poses inviolable secrecy, as well on the confessor himself, as others who may accidentally come to the knowledge of a confession, whether delivered *viva voce*, or in writing, renders it entirely useless to all the purposes of civil life.

This indispensable law, he said, was as old as the precept given us by Jesus Christ himself, for revealing our sins to a confessor. Were it not for this law of secrecy, who would venture upon confession? Consequently, it must be understood as an essential condition annexed to the precept. For would ever our Saviour, in calling sinners to the tribunal of penitence, to exercise upon them his mercy, put them in danger of losing their honour, and sometimes their life, by allowing their sins to be revealed? How could so great evils be reconciled with the goodness of God, which shines conspicuously in that tribunal? Hence it follows, that this law of secrecy must extend to written confessions, as well as oral ones, and to confessors equally with others who may come to a discovery of the confession, since the same motives, drawn from the nature of the thing, are equally applicable to the one as to the other.

M. Nivelle, in comparing this sacramental confession of a person accused, with the confession he makes in a court of justice, observes, that the former is instituted by God for the absolution of sinners; the latter established by human wisdom, in order to their condemnation; the first is the sweet refuge of an offender, the second the strongest conviction of a criminal; the one is a means of his salvation, the other the instrument of his ruin.

He shews in the next place, that the practice of the church, in all ages, has been conformable to this rule, of covering confessions with the seal of inviolable secrecy, and confirms the same by the authorities of general councils.

Whence he concludes, that those who divulge confession, offend against the laws of God, the rules of the church, the authority of councils, and the design of the institution. They do what in them lies to render the practice of confession odious, intimidate the consciences of men from submitting to this so necessary a part of their duty, and drive weary and heavy-laden sinners from this harbour of rest, this port of salvation: they especially banish from thence the greatest transgressors; that is to.

say, those who have most need of this salutary remedy : they bar those from access to it, who through weakness of memory are necessitated to write their confession ; an expedient so innocent, so allowable, that their piety, their zeal, or their confessor himself might prescribe it ; since were it not for this, they could never make a full confession of their sins. The deaf and dumb in particular, who have no other way of confessing, would thus be cut off from the benefit of that comfortable institution, and by that means be deprived of the assurance of absolution.

From this great principle of equity he concludes, that if the depositions of those who have overheard a confession are not to be admitted in a criminal process, far less ought the party's own written confession to be received, since the danger and inconvenience in this case would be so much greater than in the former, as proofs in writing are stronger than testimonial ones.

To invalidate the force of this argument, it cannot be fairly alledged that Madam De Brinvillier's memorial was a draught of a designed confession, and not the confession itself, since it evidently appears to be a true confession, from the formal manner in which it is drawn up, and the ordinary solemn preamble with which it is introduced—" I confess to God, and to you, my father."

But supposing it were only a scheme of confession, it would be equally subjected to the religion of secresy, since all the means which the penitent makes use of to come at confession are sacred, so to speak, and ought to be veiled with silence.

What could the judges alledge to justify them in making use of the sacramental confession of the accused as an instrument of her conviction? Will they plead their character as judges, as depositaries of justice, which is an image of that of God? Will they urge the weighty motive of the good of the public, to which, say they, all inferior considerations must give place? But who are they who will dare to bring such reasonings into competition with a precept immediately proceeding from Jesus Christ himself, with the interest of the sacrament of penance, and the salvation of souls? They find in the Christian name which they bear, a light that dissipates all these airy clouds ; since by that name they are bound to prefer the commands of God to their own temporal in-

terest, their life, their honour, the ties of flesh and blood, and in general to private and public good of all sorts.

Rodericus Acugna, archbishop of Portugal, in a Treatise upon Confessors, gives an account of a certain person of Barcelona, who was condemned to death for homicide, but by no means could be brought to make confession of his sins to the priest; and even when they were carrying him to execution, he still obstinately resisted all the importunities that were used with him. As they were at a loss to understand the reason of this unaccountable obstinacy, they thought fit to inform the archbishop of Valencia where the accused had committed the crime, and been condemned.

The good bishop, not willing that soul and body both should perish, took all methods to induce the criminal to confess; and he pressed him with great earnestness, the person declared at length, that he had an utter abhorrence at confession, since his confessor, who was brother to the man whom he killed, had revealed the crime, which was the cause of his condemnation. Upon this, the archbishop, who judged the interests of religion to be of far greater consequence than the punishment of an homicide, ordered the confessor to be called, and having brought him to acknowledge his crime, of disclosing the confession, which was the sole cause of the delinquent's condemnation, got the judges to revoke the sentence, and acquit the criminal; inflicting upon the confessor a gentle punishment, because he appeared sensible of his error, and had acknowledged it with so much ingenuity.

This is the substance of the arguments that were offered by the counsel for the marchioness, in order to prove that the judges ought not to admit her confession to be brought in evidence against her.

But we have reason to believe that the court judged there was sufficient evidence for condemning the accused, even abstracted from her confession. In fact, there was a manifest *corpus delicti* made out in the trial of La Chaussee; which *corpus delicti* easily led to find out the authors of the crime—St. Croix and the marchioness. Interest, the *primum mobile* of crimes, had prompted them on; the marchioness was to inherit the estates of her father, her brothers, and her sister; St. Croix

reckoned upon the disposal of the heritage of a woman who was abandoned to him by a blind passion. That fatal casket, containing so many poisons, which belonged to the marchioness, according to St. Croix's declaration, was one of the most evident pieces of conviction that can be offered to a judge; joining with it the marchioness's criminal passion for St. Croix, La Chaussee's dying testimony, and all the conjectures that were drawn from the depositions of the witnesses, and the flight of the marchioness, who had suffered herself to be outlawed, and those half-confessions that had escaped her in her answers. What more was necessary to effect her condemnation? Accordingly, sentence was passed upon her to the following effect:—

“Whereas the court has found the Marchioness de Brinvillier duly attainted and convicted of having been accessory to the poisoning of her father, her two brothers and sister, she is hereby condemned to make the *amende honorable* before the principal gate of the Church of Paris, where she shall be led in a cart, bare-footed, a rope about her neck, with a burning torch in her hands of two pounds weight, and there upon her knees declare, that for wicked revenge, and in order to be possessed of their estates, she had caused poison to be given to her said father, her two brothers, and attempted the life of her sister; whereof she repents, and asks pardon of God, the king, and the judges: which done, she shall be carried into the same cart to the place of execution in that city, there to be beheaded upon a scaffold, erected for that purpose in the said place, her body burnt, and her ashes scattered to the wind; after she has been put to the torture ordinary and extraordinary, for the discovery of her accomplices. Farther, it is hereby declared, that she has forfeited all claim to the heritage of her father, her two brothers, and sister, from the day of her committing the said crimes, and that all her goods and chattels are confiscated to him to whom the right shall belong, out of which the sum of 4000 livres shall be allotted for prayers in behalf of the souls of her said father, brothers, and sister, in the Chapel of the Conciergerie of the Palais. Given in parliament the 16th of July, 1676.”

The marchioness, who had hitherto persisted in the denial of her crimes, thought fit to make a confession of

them after this sentence was passed. M. Pirot, one of the doctors of the Sorbonne, who took her confession, and accompanied her to the place of execution, gives a very affecting relation of the twenty-four last hours of the life of this signal criminal, in the manuscript that was never published : he describes her to have been so sincere a penitent, so enlightened by the influences of divine illumination, and so thoroughly converted, that he goes the length of saying, that he could have wished to have been in her place. He says, she asked the communion, but that he denied it her, in regard it was not allowed to those who are condemned to undergo a capital punishment. He had told her that she ought to consider herself in the case of a public penitent, who is not admitted to the participation of the eucharist. Then she urged, that she hoped the blessed bread would be allowed to her, in the same manner at least as it had been given to Marshal de Marillac, her relation, before his execution. But, in answer to this, she was told, that the marshal's crime was not so atrocious as hers ; and that she ought to make atonement for it, by submitting not only to be deprived of the eucharist, but even of the figure of that sacrament.

Among the crowds of spectators who were gazing upon her as she passed to the Grève, the famous painter Le Brun planted himself in a place where he might have access to view her attentively, in order to take the proper expression of a criminal, pierced with all the horrors of her approaching sufferings. She likewise met several ladies of distinction in her passage, led thither out of mere curiosity ; she viewed them with great firmness of mind, saying to them, with an air of derision ; " this is a fine spectacle for ladies to behold ! "

In the whole course of the trial, not a word was mentioned of the Marquiss de Brinvillier, though he was still alive. We must suppose, for his honour, that the shame and confusion with which he was overwhelmed on the behalf of such a spouse, obliged him to keep out of the way, and bury himself in some obscure retreat. We are told, however, by a female author, that he solicited a pardon for his dear yoke-fellow.

Glazer, the apothecary, from whom St. Croix took his drugs, was included in this indictment, and found no small difficulty to get himself absolved.

THOMAS VENNER, AND THE FIFTH MONARCHY MEN, 1660-1.

Soon after the restoration of Charles II. the nation swarmed with fanatics, who began to be on the alert. The first that broke out, were a pack of wild enthusiasts, so besotted, that they conceived a handful of them sufficient to overwhelm and embroil the whole nation. These were the Millenaries, or Fifth-Monarchy Men, who, notwithstanding the prime heads of them, as Colonel Overton, Cornet Day, Major Allen, Courtney, &c., had been before seized upon suspicion, still persisted in their designs, which they attempted to put in execution in January 1660-1, as follows:—

On Sunday, January 6, 1660-1. the Fanatics assembled at their meeting house in Coleman-street, where they armed themselves, and sallying thence, came to St. Paul's in the dusk of the evening, and there after ordering their small party, placed sentinels; one of whom killed a person accidentally passing by, because he said he was for God and King Charles, when challenged by him. This giving the alarm, and some parties of trained bands charging them, and being repulsed, they marched to Bishopsgate, thence to Cripplegate, and Aldersgate, where going out in spite of the constables and watch, they declared for King Jesus. Proceeding to Beech-lane, they killed a headborough, who opposed them. They then hastened away to Canewood, where they lurked, resolving to make another effort upon the city, but were drove thence, and routed by a party of horse and foot, sent for that purpose, about thirty being taken and brought before General Monk, who committed them to prison.

Nevertheless, the others, who had escaped out of the wood, returned to London, not doubting of success in their enterprise; Venner, a wine-cooper by trade, and their head, affirming, he was assured, that no weapons employed against them, would prosper, nor a hair of their heads be touched: which their lucky escape made them willing to believe. They had taken the opportunity of the King's being at Portsmouth, having before endeavoured to add to their numbers, by publishing a

declaration, called, "A Door of Hope opened," full of libels on the royal family.

On Wednesday morning, January 9, after the watches and guards were dismissed, they resumed their first enterprise. Their first appearance was in Threadneedle-street, where they alarmed the Train'd Bands upon duty that day, and drove back a party sent after them, to their main guard, which then marching in a body towards them, the Fifth-Monarchists retired into Bishops-gate-street, where some of them fled into an alehouse, known by the sign of the Helmet, where, after a sharp dispute, two were killed, and as many taken, the same number of the Train'd Bands being killed and wounded. They next appeared at College-hill, Venner leading them, with a murrion on his head, and a halbert in his hand. Here was the main and hottest action, for they fought stoutly with the Train'd Bands, and received a charge from the Life-Guards, whom they obliged to give way, 'till being overpowered, and Venner knocked down, and wounded with shot, Tufney and Crag, two others of their chief teachers being killed by him, they began to retreat, and soon dispersed, flying in all directions. The greatest part of them went down Wood-street to Cripplegate, firing in the rear at the yellow Train'd Bands, then in close pursuit of them. Ten of them fled into the Blue Anchor ale-house, near the postern, which house they maintained till Lieut-Col. Cox, with his company, secured all the avenues to it. In the mean time, some of the yellow Train'd Bands got upon the tiles of the next house, which they threw off, and and fired in upon the Monarchists, who were in the upper room, and even then refused quarter. At the same time another file of musketeers got up the stairs, and having shot down the door, entered upon them. Six of them were killed, another wounded, and one refusing quarter, was knocked down, and afterwards shot. The others being asked why they had not begged quarter before, answered, they durst not, for fear their own fellows should shoot them. Such was their resolution, or enthusiastic madness.

In this insurrection, were slain twenty-two of the King's men, and as many of the traitors, most of them in houses; and some others taken prisoners, were afterwards shot for

refusing to tell their names. There were twenty taken, besides some few upon suspicion; the twenty were as follows, viz. Thomas Venner, the wine-cooper, their captain; Roger Hodgkins, a button seller in St. Clement's-lane, Lombard-street; Leonard Gowler, Jonas Allen, John Pym, William Orsingham, William Ashton, Giles Pritchard, a cow-keeper; Stephen Fall, John Smith, William Cocket, John Dod, John Eleston, Thomas Harris, John Gardener, Robert Bradley, Richard Marten, John Patshal, Robert Hopkins, and John Wells, five of whom had been formerly in a design against Oliver Cromwell.

These were all brought to their trial together; the wounded men had chairs allowed them, and their indictment was for high treason and murder.

Thomas Venner was first called, who, when he had held up his hand at his arraignment, being asked, Guilty or Not Guilty, began a wild fanatic discourse about his conversation in New-England, and concerning the fifth monarchy, and the testimony within him for above twenty years. He confessed he had been in the late rising, but was not guilty of treason, intending not to levy war against the king; but the court pressing him to plead directly to the indictment, he answered, "Not Guilty."

In like manner Hodgkins, after some digression, pleaded to the indictment; the rest of his fellows submitting. The witnesses being then sworn, two against every particular person, made it appear, that Venner, Tuffney, and Crag, the two last whereof had been slain in the action, did several times persuade their congregation to take up arms for King Jesus, against the powers of the earth, which were his Majesty, the Duke of York, and the General; that they were to kill all that opposed them; that they had been praying and preaching, but not acting for God; that they armed themselves at their meeting-house in Coleman-street, with blunderbusses, muskets, &c. besides other particular evidence against each of them to matter of fact. The proof against Martin, Hopkins and Wells, was not so full as against the others, and against Patshal, there was but one witness, whereupon they were acquitted by the jury. The other sixteen being found guilty, and brought to the bar, were required to shew cause why judgment should not be given against them, &c. The

Lord Chief Justice Foster charging Venner with the blood of his accomplices, by seducing and leading them, he answered, he did not. To which, the witnesses being produced again, he said "It was not he, but Jesus, that led them." Three of them confessed their crime, and begged mercy. All the sixteen were condemned to be drawn, hanged, and quartered.

According to this sentence, on Saturday, January 1660-1, Venner and Hodgkins, being guarded by two companies of the Train'd Bands, were drawn on a sledge from Newgate, through Cheapside, over-against their meeting-house in Swan-alley in Coleman-street, and there executed. Venner spoke little. Hodgkins raved and cursed, calling down the vengeance from heaven upon the King, the judges and the city of London; nor would he be silent, although ordered by the Sheriff, till the hang-man was hastened from his employment of quartering Venner to turn him off. Their quarters were set upon the four gates of the city, next the late executed regicides, whose quarrel and revenge they had undertaken in this their frantic attempt. Their heads were also set upon poles, by some of the others, on London Bridge.

On Monday the twenty-first of January, nine more of them were executed, all in one morning, at five several places, by the same executioner; two at the west-end of St. Paul's, two at the Bull and Mouth, two at Beech-lane, two at the Royal Exchange, and the last, Leonard Gowler, a notable fellow, at Bishopsgate. They all obstinately persisted in their belief, especially the last, who began with imprecations, like Hodgkins, and was silenced in the same manner, by the command of the sheriff. One young man only, who was hanged in Redcross-street, repented of his sin, but he died in his opinion of Chilianism. When cut down, the sentence was not executed on them to the full; only their heads cut off, and set upon London Bridge.

ROBERT GREEN, HENRY BERRY, AND LAURENCE HILL,

AT THE KING'S-BENCH BAR, FOR THE MURDER OF
SIR EDMUND-BURY GODFREY, 1678.

ON Wednesday the 5th of February, they were brought from Newgate to the King's-Bench bar to be arraigned.

The indictment set forth,

That Robert Green, late of the parish of St. Mary-le-Strand, in the county of Middlesex, and Henry Berry of the same parish and county, labourer, and Laurence Hill, late of the same parish and county, labourer, together with ———— Girald of the same parish and county, clerk; Dominick Kelly of the same parish and county, clerk, and Philibert Vernatt of the same parish and county, labourer, (the three last being withdrawn) upon the 12th day of October, in the 30th year of King Charles II. at the said parish of St. Mary-le-Strand, in the county of Middlesex aforesaid, did feloniously, wilfully, and of their malice aforethought, make an assault upon the person of Sir Edmund-bury Godfrey, knight; and that the aforesaid Robert Green a certain linen handkerchief of the value of sixpence (being twisted) did put about the neck of the said Sir Edmund-bury Godfrey, and therewith choak and strangle him, whereof he instantly died; and that the said Berry, Hill, Girald, Kelly, and Vernatt, were then and there present, aiding, assisting, comforting, and abetting the said Robert Green; and so the prisoners at the bar, with the said other persons, did kill and murder the said Sir Edmund-bury Godfrey, against the king's peace, his crown and dignity, &c.

To which indictment the said Green, Berry, and Hill respectively pleaded Not Guilty.

On Monday, February 10, 1678, the prisoners were brought to trial at the King's-Bench bar. A Jury being sworn and charged with the prisoners, and proclamation made for evidence, Sir Thomas Stringer, serjeant at law, opened the indictment; and his Majesty's Attorney-General, Sir William Jones, shewed the nature and course of the evidence.

Then the witnesses were called; and first Mr. Oates.

Mr. Sol. (Sir Francis Winnington).—Pray give the court an account of what transactions there were between you and Sir Edmund-bury Godfrey.

Mr. Attor.—We call this gentleman to prove what examinations Sir Edmund-bury Godfrey had taken, and what was his opinion of himself about them.

Ld. Ch. Just.—I suppose you make use of it to shew that that might be an inducement to these persons to

commit this fact, because he was forward in the discovery of their plot. Come, Mr. Oates, pray tell your knowledge.

Mr. Oates.—Upon the 6th of September last, I went before Sir E. Godfrey, and gave in several depositions upon oath, and then took them home with me. Upon the 28th of September, having taken two or three copies of this record, we went before Sir E. Godfrey again, and swore all the copies we had made. After this I made known the business to the council, and on Monday, (I think it was the 30th of September) Sir E. Godfrey came to me, and told me what affronts he had received from some great persons, for being so zealous in this business; and that others who desired to have the discovery made, thought he was too remiss in the prosecution, and threatened to complain to the parliament of him, which was to meet October 21st following. And the week before Sir Edmund was missing, he told me several Popish lords, some of whom are now in the Tower, had threatened him, and asked him what he had to do with it; that he went in fear of his life by the Popish party, and observed he had been dogged several days, but that he should not fear them if they came fairly to work.

Thomas Robinson, Esq. Chief Prothonotary of the Common-Pleas, was sworn.

Mr. Recorder.—Pray acquaint the court what apprehensions Sir Edmund-bury Godfrey had concerning this business.

Mr. Robinson.—Sir E. Godfrey and I have been acquainted these forty years, and we have been in Commission of the Peace together, for this city and county, a considerable time; and meeting with him at the Quarter Sessions for Westminster, on Monday the 7th of October, after the court was up, we went to dinner with the High Bailiff, where we discoursed about the plot; and I said to Sir Ed. Godfrey, "I hear you have taken several examinations about this plot, that is now made public;" and he answered, he would fain have had others done it, and he thought he should have little thanks for his pains; and discoursing further, he said, "Upon my conscience I shall be the first martyr;" but he said he did not fear them if they came fairly: he should not part with his life tamely. I told him he would do well to have his man go with him, and I observed he never went with one; but he said he did not like it,—it was a clog to a man.

Mr. Praunce was sworn.

Ld. Ch. Just.—Pray tell us the first motives that induced you to do this thing.

Praunce.—My Lord, about a fortnight before Sir Edmund was murdered, I was at the Plow alehouse with Mr. Girald, Mr. Green, and Mr. Kelly; and Mr. Girald and Mr. Kelly, who are priests, enticed me, and told me it was no sin to murder him, but a charitable act, for he was a busy man, and had done and would do a great deal of mischief; and they said the same by the water-side; and I heard Girald, Kelly, and Green say, that they had dogged him into Red-lion-fields, and had not an opportunity of doing it there.

Mr. Attorney.—What discourse had they at the Plow?

Praunce.—There they resolved, that the first that could meet him should give notice to the rest to be ready.

Mr. Attorney.—Do you know of any sending to his house, or going to it?

Praunce.—Yes; Hill or Green (one or both of them) told me they did go to his house on the Saturday morning about nine or ten o'clock, to ask for him; and the maid telling them he was not up, they went out, and staid for his coming out, and dogged him up and down that day till they dogged him into St. Clements; and about seven o'clock Green came to me to my house in Princes-street, and gave me notice he was at St. Clements, and Girald and Kelly were watching him; I now came to Somerset House as fast as I could, and about eight or nine o'clock Hill came before up the street, and gave us notice we must be ready; then he went up to the gate, and stood there till Sir Ed. Godfrey came by, and then told him there were two men quarrelling, and desired him to come down and try if he could part them. He was very unwilling; "But pray, Sir," said Hill, "you being a justice of peace may qualify them." So he went down as far as the bottom of the rails, and there Green twisted his handkerchief and threw it about his neck, and threw him behind the rails, and there choaked him; and Girald would have run his sword through him, but the others would not suffer him, for fear the blood should discover them. About a quarter of an hour after, I came down, and found he was not quite dead, for I laid my hand on his legs, and they shook; then Green wrung his neck quite round, and punched him with his knee, as he boasted afterwards.

Ld. Ch. Just.—Where was you when the handkerchief was twisted about his neck?

Praunce.—Hill ordered me to stand at the water-gate.

Mr. Serj. Stringer.—You watched the water-gate: who watched the stairs?

Praunce.—That was Berry.

Mr. Att.—Who were about the body, when you came from the gate?

Praunce.—There were Hill, Green, Girald, and Kelly; and a while after, Berry came, and helped to carry him into the house, as we did all; and Hill went before and opened the door, and we carried him into Hill's room in Dr. Goodwin's house, where the body lay till Monday night, and then it was removed into Somerset House, and Hill shewed it me with a dark lanthorn; Girald, Hill, and Kelly, and all were there, and something was thrown over him.

Mr. Just. Wild.—Is not Hill's chamber in Somerset-house?

Mr. Serj. Stringer.—Describe the room, Mr. Praunce, as well as you can.

Praunce.—I am not certain of the room, and so cannot describe it. Hill's chamber is in the lower part of the house, in a court. On Tuesday night it was carried to Hill's chamber again, but somebody being there, they could not carry it in, but went with it to the chamber over-against it;—I think they were Sir John Arundell's lodgings. There it lay till Wednesday night; and about nine that night they were removing it to the room where it first lay; and I happening to come by as they were removing it, they were frightened, and run away; but I spoke, and Berry came back again, and got the body up into the room, and about twelve it was carried away in a sedan; Hill put him in, and Girald and I carried him through the great gate of the upper court; one of us hemmed, and Berry opened the gate for us, and Green and Kelly went before, till we came to Covent-Garden; then Green and Kelly took him, and carried him to Long-Acre, and from thence we took him, and carried him to Soho church, and there Hill met us with a horse, and we helped the body up, and set it astride, and Hill rid behind him, and held him up, and we set the sedan in a new house till we came back.

Ld. Ch. Just.—Who went with him?

Praunce.—Green, Hill, Girald and Kelly; and the next morning I met Hill, Girald and Kelly, and they told me they had run him through with his own sword, and thrown him into a ditch, and laid his gloves and other things upon the bank.

Mr. Attor.—Now tell the story of your meeting at Bow?

Praunce.—The Friday after the proclamation, that all papists should depart from town, Mr. Vernatt, Mr. Girald, Mr. Luson a priest, and one Dethick and myself, dined at one Cashe's at the Queen's Head, in Bow, and there they all read the account of the murder, and were very merry; (Mr. Vernatt should have been one at the doing it, but something happened he could not.) And one of the drawers came and listened at the door, and hearing something, I went to the door, and caught him listening, and said, Sirrah, I could find in my heart to kick you down stairs, and away he went.

Mr. Just. Jones.—Was it agreed at the Plow, that Sir Edmund should be killed?

Praunce.—It was agreed there; and the first that met him was to give notice to the rest.

Mr. Just. Dolben.—Were there not two meetings at the Plow?

Praunce.—Yes; Hill was not at the first meeting, but at the last he was.

Mr. Attor.—Was there any reward proposed by the priests for doing it?

Praunce.—Girald and Vernatt spoke of a great reward from my Lord Bellasis.

Mr. Just. Dolben.—At your meetings did you resolve upon the way of doing it?

Praunce.—Girald resolved to kill him that night, and if he could not find a more convenient place, he would kill him with his own sword in the street that leads to his own house.

Mr. Recorder.—The priest, rather than fail, was resolved to do that act of charity himself.

Mr. Attorney.—Do you know Mr. Bedlow?

Praunce.—I never was in his company till I was committed to prison.

Hill.—Praunce is not a lawful witness, for he is perjured by his own confession.

Ld. Ch. Just.—He accused you upon oath, and then he made a confession, that what he had sworn was not true; but that confession was not upon oath, how then is he guilty of perjury?

Hill.—If a man swear a thing, and after deny it, he is certainly perjured.

Mr. Attorney.—We shall call Captain Richardson to give an account of this matter.

Ld. Ch. Just.—Mr. Richardson, were you by, when Mr. Praunce denied all that he had confessed?

Capt. Richardson.—On the Sunday night, before the prorogation of the last parliament, I received a letter from one of the Lords of the council to bring up Mr. Praunce, to be examined. When we came thither, Mr. Praunce was disturbed, and desired to speak with the King, and I carried him into the King's closet, where he fell down on his knees, and said he was innocent, and they were all innocent; and he said the same thing before the council. The lords asked him, if any body had been tampering with him, and he said no. But as soon as I came home, he begged of me for God's sake to go back again with him to the King, to acquaint him, that all he had but now said, was false, and what he had sworn before, was truth; and he said, it was his fears that made him recant, and out of an apprehension that his life was not secure; for he said, if he had his pardon, he should lose his trade, and be in danger of being murdered by the Roman Catholics.

Mr. Just Jones.—Mr. Praunce, you are upon your oath now, is this all true that he has said?

Praunce.—Yes, my Lord, it is.

Mr. Attorney.—Did he ever express any abhorrence of the practice of that church?

Capt. Richardson.—Yes, my Lord, he did.

Mr. Attorney.—I hope it will make all people abhor and forsake them in time, if these practices be true. We will now call Mr. Bedlow, who, though he was not present at the murder, saw the body in Somerset-house,

after it was dead, and will give some circumstances, which will very much corroborate Mr. Praunce's testimony.

Mr. Bedlow was sworn.

Mr. Attorney.—What conference had you with any persons, priests, or jesuits, about murdering any one ?

Bedlow.—I have been treated with several times, not only about the plot, but about murdering a gentleman ; Le Faire, and Pritchard and Kaines, and several other priests discoursed with me about it the beginning of last October, or the latter end of September, and said they would find some to assist me, and I should have a considerable reward, but they never told me who it was that was to be murdered ; indeed they directed me to insinuate myself into the acquaintance of Sir Edmund Godfrey, and I went six or seven days to his house, on pretence of getting warrants for their good behaviour, against persons whose names I feigned, and got pretty much into his acquaintance. And the very day before he was murdered, I was at the Greyhound tavern, with these priests, and they desired me to fetch him thither, that they might be acquainted with him ; and I sent my boy to see if he was at home, but he brought me word, he was not. The next morning I met Le Faire, and went to the Palsgrave's-head-tavern with him, where he told me, there was a very material man to be put out of the way that night ; one, who had all the informations that Mr. Oates and Dr. Tongue had given in ; that they had made several attempts on him, but they had failed, and if he should not be taken out of the way, and the papers taken from him, the business would be so obstructed, that they must wait till another age before they could effect their design. I said I would assist in it, as I had promised, but asked where the 4000l. was, that had been promised as a reward ; and he told me, my Lord Bellasis was engaged for it, and Mr. Coleman had orders to pay it.

Ld. Ch. Just.—Let us know, when you first knew it to be Sir E. Godfrey.

Bedlow.—I was to meet Le Faire again that night in Somerset-house cloysters, but knowing their design was to murder some body, I would not come ; but on Monday, about nine at night, I met him in the cloysters, and he reproved me that I did not come according to my promise, and assist in the business ; but said, if I would help to carry him off, I should have half the reward. I asked to see him, and he led me into a room through a dark entry, where were four or five people ; they had a small light in a lanthorn, and did not open it, till I had had a turn about the room ; and one threw off the thing that lay upon the body, and I went and looked upon him, and knew him ; he had such a cravat about his neck as I have, but the jesuits who were there, were not the same who had employed me to insinuate myself into his acquaintance, and so they thought I had not known him. I advised them to tie weights to his head and feet, and sink him in the river ; but they said “no, we will put it upon himself, there are none but friends concerned ;” and they said they had strangled him, but how, I did not know. When they pressed me to help to carry him out, I said it was too early, and about eleven o'clock would be a better time. Le Faire said to me, “upon the

sacrament you took on Thursday, you will be at the carrying off of this man at night." I promised him I would, but went away very unsatisfied, having so great a charge upon me as the sacrament of the altar, which, after the discovery of the plot, was administered to me twice a week, to conceal it, and I could not tell how to discover. Then I went to Bristol, and was very restless and disturbed, knowing some murders had been already committed, and greater intended, and I was at last convinced, and could no longer forbear the discovery, so I wrote to the Secretary, and gave in my information to the parliament—Mr. Praunce being taken up on suspicion, and in the constable's hands, Mr. Oates came by and desired to see him, and soon after I came in, and knew him to be one of those I had seen with the body, and then I went to the House of Lords, and made out my charge against him.

Ld. Ch. Ju-t.—Was the dark lanthorn at Mr. Hill's lodging, or at the other place, Mr. Praunce?

Praunce.—At the other place.

Ld. Ch. Just.—What time did you see the body there?

Praunce.—About nine or ten o'clock.

Ld. Ch. Just.—What time did you see him there, Mr. Bedlow?

Bedlow.—It was after nine, my Lord.

Ld. Ch. Just.—Was there no sentinel set at Somerset-house on the Saturday, Monday, or Wednesday nights?

Praunce.—My Lord, I took notice of none; if there were any, they were at Berry's house, and he opened the gate, when we carried out the sedan.

Frown the constable sworn.

Mr. Recorder.—Pray, in what posture did you find Sir E. Godfrey?

Brown.—I found him in a ditch, with his sword run through him, and the end of it was two handsful through his back; there was no blood in the ditch, nor none followed when the sword was taken out. They had run it into another place, but that was against a rib, and so it could not go through, but there was no blood there. His breast looked black, and I suppose his neck was broke, for it was so weak, one might turn his head from one shoulder to the other; his stick and gloves lay by him on the bank, and he had a great deal of gold and silver in his pockets.

Mr. Skillard, the Surgeon, was sworn.

Mr. Attorney.—Pray inform the court, when you saw the body of Sir E. Godfrey.

Skillard.—Upon Friday about twelve of the clock, the day after the body was found, I viewed it; his breast had been beaten, and his neck was distorted; you might have taken the chin, and set it upon either shoul'er. He had one wound, that stopped at a rib, and another went through his heart, and so through the body.

Mr. Attorney.—Was he killed by that wound ?

Skillard.—I do not think he was, because there was no evacuation of blood ; and besides, his bosom was open, and he had a flannel waistcoat, and a shirt on, and neither these, or any of his clothes, were penetrated.

Mr. Attorney.—How long do you think he was dead, before you saw him ?

Skillard.—I believe four or five days ; and they might have kept him a week ; for strangled people never swell. When we ripped him up, the liquor in his body smelled a little ; and the lean flesh was so near putrefaction, that it stuck to the instrument, when we cut it.

Mr. Cambridge, another surgeon, was sworn.

Mr. Recorder.—When did you see the body ?

Cambridge.—Upon the Friday ; and I found his neck dislocated, and his breast beaten and bruised, and two punctures under his left pap ; one went against a rib, and the other quite through his body, and I believe they were given him after his death.

Eliz. Curtis, Sir Ed. Godfrey's maid, was called.

She deposed, that the Friday before her master was missing, Green enquired for him, about nine or ten in the morning, and when Sir Edmund came to him, Green bid him good-morrow, and afterwards spoke to him in French ; and that he was about a quarter of an hour with him. That Hill the prisoner was with her master on the Saturday morning, and staid with him a considerable time in the parlour, and that he had the same cloathes he appeared in at the bar.

Ld. Ch. Just.—Have you ever shifted your cloaths ?

Hill.—No, indeed I have not.

Eliz. Curtis.—On the night before my master was missing, a man brought him a note, and I carried it in, and told my master he staid for an answer : and my master said, prithee tell him I do not know what to make of it : but I cannot say, it was any of the prisoners who brought that note.

Lancelot Stringer was sworn.

He deposed, that he was servant at the Plough ale-house, and that he had seen Mr. Praunce there several times in company with Green, and Hill, Mr. Fitz-Girald and Kelly.

Mr. Vincent was sworn.

He deposed, that he had seen the prisoners in company with Mr. Praunce, at his house (the Plough ale-house) and that he had seen Girald and Kelly at his house.

Richard Cary was sworn.

He deposed, that three gentlemen came to the Queen's-head, at Bow, and they sent the deponent with a letter to Poplar, to George

Dethick, Esq., that he delivered the letter, and Mr. Dethick told him, he would be there presently, and he brought this answer to the gentlemen, who gave him a glass of wine, and paid him sixpence for going.

Mr. Recorder.—Was Mr. Praunce one of them?

Cary.—He looks like one of them.

Mr. Recorder.—Was this the man you sent Mr. Praunce?

Praunce.—Yes, this was the man.

William Evans, drawer at the Queen's-head, was sworn.

Mr. Recorder.—Do you remember a company that was at your master's, two or three months ago?

Evans.—I remember a company that was there, and Mr. Dethick came to them, and they had a barrel of oysters and flounders for dinner; and they pulled out a paper, and read it, and named Sir Edmund Godfrey's name. And while I was at the door, one of them came and threatened to kick me down stairs.

Sir Robert Southwell was sworn.

Mr. Recorder.—Pray, Sir, tell your knowledge of Praunce's examination.

Sir Robert Southwell.—On the twenty-fourth of December, Mr. Praunce gave a general account of things to the council, concerning this murder, which relating to this bench, and that room, &c., it was not understood by the board. Whereupon the King appointed the Duke of Monmouth, the Earl of Ossory, and Mr. Vice-chamberlain to the Queen, to go to Somerset-house, and take the examination upon the place; and I, being a clerk of the council, waited upon these lords. And Mr. Praunce shewed them first the bench where they were sitting when Sir Ed. Godfrey was coming down, then the corner into which they drew him when they had strangled him; then the place where Berry went to stay, which was at the stairs that lead to the upper court; then a little door at the end of the stables, which led up a pair of stairs, and at the head of the stairs, a long dark entry, and at the top of those stairs, a door on the left hand, which being opened, shewed us eight steps, which led to the lodgings that were Dr. Godwin's, in which Hill was said to be inhabitant for seven years before; and as soon as we were gone two steps, there was a little closet on the right-hand, in which there was a bed; and there he told the lords, was the place they handed the corpse up first, and there they left it two nights in the care of Hill. And this account was agreeable to what he had declared before the council in the morning; but what he says now of Sir John Arundel's chambers, that cannot be, for those lodgings are not capable of receiving a person of Sir John's quality.

Mr. Attorney.—When Mr. Praunce shewed these places, did he do it readily, or with hesitation?

Sir Rob. Southwell.—Hitherto he went directly and positively; but when the lords enquired whither the body was carried after-

wards, he said, it was into some room of the house by the garden, and he undertook to lead them to the place as well as he could, and went through the long dark entry that leads into the outer court of the great house, and crossing the quadrangle, he led us to the piazza, and down a pair of stairs ; so far he was positive ; but after we were down stairs, there was a great square court, then he began to stagger ; however, on he went across the court, and through several rooms, until we came up stairs again, and so into several other rooms ; then he said, sure we were here, but I cannot tell ; and was in distraction which room he saw the body in, but said, thus far he was sure he was right.

Ld. Ch. Just.—His doubtfulness of the room, gives credit to his testimony.

Mr. Recorder. Did not Hill at his examination say he knew Girald, but deny he knew Kelly ?

Sir Robert Southwell. He denied he knew Kelly, but said he knew Girald.

Hill. I said I knew one Girald, but not that Girald ; he that I knew was no priest.

Ld. Ch. Just. This way of answering is like the examination that was taken lately ; where one of them being asked, if he knew such a priest, he denied he had seen him in fourteen days ; but when one came and proved to his face, he had been in his company all night within a week, aye, says he, that is true, but I said I had not seen him in fourteen days.

Mr. Thomas Stringer was sworn.

He deposed, that Berry said upon his examination, that he had orders from the Queen, or in the name of the Queen, that he should suffer no strangers, or any persons of quality to come into Somerset-house, the 12th, 13th, or fourteenth days of October, and that the Prince came, and he refused him ; but he said, he never had had such orders before.

Ld. Ch. Just. It was a very unlucky thing that he had them then.

Berry.—I had such an order from the Queen's gentleman usher, but the Prince might have gone in if he would, and several did go in ; and I did not say I never had such orders before, for I had the same formerly.

Mr. Just. Wilde.—This is a kind of reflecting evidence, and no more should be made of it than the thing will bear.

Mr. Attorney.—No body here offers it as such ; we use it only to shew, that Berry, who was a party to this murder, endeavoured to prevent strangers coming in those nights to discover it, and therefore pretended these orders.

Stephen Farr was sworn.

He deposed only, that Berry's wife was with him, to know if he

remembered her husband was with him the sixteenth of October, but he did not remember he was.

L. C. J.—What do you say for yourselves?

Then Hill called his witnesses, and first, Mrs. Mary Tilden.

Hill.—Pray tell what you can say about my being in my lodging.

Mary Tilden.—He has lived in my uncle, Dr. Godwin's family, seven or eight years. We left him always in the house, when we were absent; he was a trusty servant, and kept good hours; he always came in by eight o'clock at night.

Mr. Just. Dolben.—Always; for how long? M. Tilden.—Ever since we came into England last, which was in April; and particularly he was not out after eight o'clock that night they said Sir E. Godfrey was killed.

L. C. J.—How can you give such an account, as if he was always in your company? M. Tilden.—He came in to wait at table, and did not stir out afterwards.

L. C. J.—And you are sure he was at home every night? M. Tilden.—Yes, while we were in town; for when he came in, I always sent my maid to bar the door.

Mr. Recorder.—You did not always watch him while you went to bed, did you? M. Tilden.—If your Lordship saw the lodgings, you would say, it were impossible for any to go in or out, but that we must needs know it. We are constant in our hours of going to supper, and our doors never opened after he came in to wait at supper.

L. C. J.—Where was he that Wednesday night, when you say it was reported Sir Ed. Godfrey was murdered; he having been missing from the Saturday before? M. Tilden.—He was at home.

L. C. J.—They have a general answer for all questions: who kept the key of the door? M. Tilden.—The maid.

Mr. Just. Jones.—How do you know that the maid did not let him out? Praunce.—She confessed there were four or five keys. M. Tilden.—There was but one that kept the door fast.

Mr. Just. Jones.—When were you out of town? M. Tilden.—In October.

Mr. Just. Jones.—You have undone the man, instead of saving him. M. Tilden.—Why, my Lord, I only mistook the month.

Mrs. Broadstreet appeared.

L. C. J.—When were you out of town? Broadstreet.—In September.

L. C. J. to Mrs. Tilden.—Either you consider not what you say, or say any thing to serve a turn. M. Tilden.—No; I know it was September we were out of town, and we came to town the latter end of September; and it is impossible, if the body was in the house, as he says it was, but some of us must see it; I used to go into that little room myself every day for one thing or other.

Broadstreet.—We came to town upon a Monday; Michaelmas day was the Sunday following, and from that time neither he nor the maid used to be abroad after eight o'clock; the lodging was so

little, that nothing could be brought in, but they within must know it; the room they speak of is even with the dining-room, and over against it; and the key was always in the door, and every day some body went into it for one thing or other.

Mr. Just. Wilde.—Then it is very suspicious, you must hear it brought in, or see it; it laying there from Saturday till Monday, but I shall not judge you. Broadstreet.—But we did neither see it, or hear of it.

Mr. Just. Dolben.—It is well you are not indicted.

Broadstreet.—You know all these things to be false, Mr. Praunce.

Praunce.—You said before the Duke of Monmouth, he was gone from his lodgings before that time.

Sir Robt. Southwell.—She swore then, two or three days after Michaelmas-day. Broadstreet.—I only said, I could not tell the time exactly.

Katherine Lee, the maid, was called.

Lee.—I never missed him out of the house at those hours.

Mr. Just. Dolben.—Might not he go out of the house, and you not know it? Lee.—Yes, for I did not watch him always.

Mr. Just. Wild.—Were you on the Sunday in the room where the body was laid? Lee.—I cannot say I was in that room, but I called in at the door every day, and I was the last up every night.

Daniel Gray was called.

Hill.—I desire he would say where I was those five days Sir E. Godfrey was missing. Gray.—I kept my brother Hill company from the eighth of October, till he took his house, which was the twenty-second, or twenty-third, and about nine or ten o'clock at night, I used to part from him, and go to my own house.

Robert How was called.

He deposed, that Hill met him, and told him he was taking a house, and desired him to view what repairs were wanting. That the eighth day they began to repair it, and worked at it for twelve days following, and Hill was with them every day. That the twelfth of October, Hill was with the deponent from nine or ten in the morning, till one or two in the afternoon; and his man told him he was there again about four in the afternoon.

L. C. J.—Are not you a protestant?

How.—Yes, my Lord, I think so.

Praunce.—He is a catholic, my Lord; he was the Queen's carpenter.

Hill.—He tells you I was with him from nine on Saturday morning till one.

Mr. Just. Jones.—And that is as true, as that he is a protestant.

Mr. Cutler was called.

He deposed, that on the twelfth of October, Hill came to his house about five o'clock, and staid till seven or eight, when his wife came for him, and said, some gentlewoman wanted her supper, and then he went home.

Richard Lazineby deposed, that he dined with Mr. Hill and Mr. How, the twelfth of October, and that he saw him the Wednesday night following, from five to seven.

Mr. Archibald deposed, that on the Monday he was at Mr. Hill's house; and telling him that Praunce was taken up for the murder of Sir Ed. Godfrey, Hill said he was glad of it, and wished they were all taken.

Hill.—If I had known myself guilty, I had time enough after this to make my escape.

Mrs. Hill, the prisoner's wife, offered a paper to the court, containing exceptions to the indictment, which they refused to read, but bid her give it her husband.

Warrier, Hill's landlord, was called.

He deposed, that on the twelfth of October, he was at his house half an hour after seven, and was not out of his house till after ten.

L. C. J.—Pray how came you to recollect it was that day?

Warrier.—I called it to mind by my work.

Capt. Richardson.—My Lord, since their arraignment, I went to his landlord and landlady, and asked if they could say any thing as to this particular day, and they said, they could do him no good at all.

Mrs. Warrier called.

L. C. J.—How do you know it was that Saturday?

Mrs. Warrier.—It was the Saturday fortnight after Michaelmas-day; we did look upon the almanack, and reckon it so.

Mr. Just. Dolben.—Then that was the nineteenth of October.

L. C. J.—Why you told him you could do him no good, and indeed you do not.

Mr. Just. Jones.—You and your wife speak of the same time, do you not.

Warrier.—Yes.

Mr. Ravenscroft appeared.

He deposed, that he called at Hill's house the night before he was taken up, and his wife told him of Praunce's being taken up for the murder of Sir E. Godfrey, and said, it was muttered, her husband was concerned; but that he defied Praunce and all his works. I asked, where her husband was? and she said, he was within; which I looked upon as an argument of his innocence, when he knew he was suspected.

L. C. J.—Then this discourse was after Archibald was there.

Ravens.—Archibald had been there before, and spoken of it in his company.

L. C. J.—Well, Berry, what have you to say?

Berry called Corporal William Collet.

He deposed, that on Wednesday the sixteenth of October, being the night the King came from Newmarket, he placed the centinels at Somers'-t-house; that he placed one Nicholas Trollop within the wicket of the great gate, from seven to ten, and then Nicholas Wright relieved him, and he stayed from ten till one.

Nicholas Wright the centinel appeared.

He deposed, that there was no sedan went out the time he stood there.

Trollop—There was one came in while I stood there, but it was set down within the gate.

Mr. Just. Wild.—But did not you go to drink, or tippie all that time?

Trollop.—No, nor walk a pike's length off the place of centry.

Mr. Just. Dolben.—How can you remember so particularly so long ago?

Collet.—We were examined by a committee of council before Praunce was taken up, a matter of a month or six weeks after the thing was talked of. And it was the same night the queen went from Somerset-house to Whitehall.

Gabriel Hasket appeared.

Hasket.—I was centinel that night from one till four.

L. C. J.—What night?

Hasket.—That night the King came from Newmarket, and the Queen went from Somerset-house, which was on a Wednesday the sixteenth day of the month.

Eliz. Minshaw, Berry's maid appeared.

She deposed, that her master was about the gate when the Queen went away, and then he went to bowls, and came home about the time it was dusky, and was not absent an hour till he went to bed, which she thought was about twelve o'clock.

Mrs. Hill.—I desire Mr. Praunce may swear why he denied all he had deposed.

Praunce.—It was because of my trade, my Lord, and for fear of losing my employment from the Queen and the catholics, which was most of my business; and because I had not my pardon.

Mrs. Hill.—Was he not tortured to make his confession?

Praunce.—No, my Lord, Capt. Richardson used me as civilly as any man all that time.

Mrs. Hill.—Well, I am dissatisfied; my witnesses were not rightly examined; they were modest, and the court laughed at them.

Berry.—The centinels that were at the gate all night let nothing out.

L. C. J.—You could open the gate yourself.

Berry.—But he says he should have seen if the gate had been opened: and that he never saw the gates opened.

Mr. Just. Dolben.—Well, the jury have heard all, and will consider of it.

Mr. Attorney, in his observations on the evidence, said that this was a murder committed through zeal to a false religion; and that religion was such a bond of secrecy, that though his Majesty had issued out his proclamation, proposing a reward to the discoverers, yet it had been almost without effect; and he believed, if Mr. Praunce had not had some inclination to change his religion before, they had still been without that clear discovery they now had; and concluded with a text out of Judges, "The people said there was no such deed done, &c."

Mr. Solicitor observed, that it was not pretended, Mr.

Praunce was bribed to give his evidence ; and that he had even neglected to lay hold of the reward in the proclamation, for that he denied all, when he was first apprehended ; and that he did not confess till he found himself in custody, and likely to be brought to justice.

The Lord Chief Justice then summed up the evidence pretty exactly for the king, giving it at least its full weight, but hardly mentioned the evidence that was given for the prisoners, saying, that all their evidence was slight, and answered itself, or else it was impossible to be true : all the testimony that was considerable, was what the centinels had given for them, viz. that they saw no sedan go out that night ; but he insinuated, that either they might be mistaken, or might not be honest men ; and suggested, that the single evidence of a centinel ought not to overthrow that whole series of evidence, that had been given for the king ; and said, that this gentleman had been murdered, either because he knew something the priests would not have him tell, or they did it in defiance of justice, and in terror to all those who dare execute it upon them.

The jury then withdrew, and, after a short recess, brought in all the prisoners guilty, for which the Chief Justice commended them, and said, if it were the last word he had to speak, he should have pronounced them guilty.

On Tuesday the eleventh of February, the prisoners were brought again to the bar, to receive sentence.

Mr. Recorder informed the court, that one of the tipstaffs had taken the prisoners' coats off their backs, immediately after their conviction, as his fee, and the tipstaff insisted that the upper garment was his fee, where a prisoner was tried at the bar ; but the court ordered their clothes to be restored them. The Recorder in the absence of Mr. Attorney, then prayed judgment against the prisoners ; and it being demanded what they had to say in arrest of judgment, they only made protestations of their innocence. And Mr. Justice Wild being second judge of that court, whose office it is to pronounce judgment in all criminal matters, except high treason, after he had made a speech, shewing the greatness of their offence, and exhorting them to a confession, proceeded to pronounce the sentence, viz.—

That you go from hence to the place from whence you came, and from thence to the place of execution, where you shall be severally hanged by the neck, till you are severally dead.

The prisoners moved that their friends and relations might have liberty to come to them, which was granted, but they were denied to have any Popish Priests with them. And they were executed February twenty-first following.

PHILIP EARL OF PEMBROKE AND MONTGOMERY,

FOR MURDER, BEFORE THE HOUSE OF LORDS, 1678.

ABOUT noon the lords came from their house above, in their usual order, to the court erected for them in Westminster Hall; and the Lord High-Steward's commission being read, as also the certiorari to the commissioners, before whom the indictment was found, and the return thereof, the Constable of the Tower was commanded to return his precept, and bring his prisoner to the bar. The Constable of the Tower being a peer, Sir John Robinson, his lieutenant, brought the Earl of Pembroke to the bar: after which the Lord High-Steward made a speech to the prisoner; wherein he acquainted him, that he stood charged with no less a crime than murder, by the grand jury of the county of Middlesex, who were all men of quality; but that this was no more than an accusation, upon which their lordships should not prejudge him; the examination of the grand jury having been but partial. That his lordship was now to be tried in full parliament, and not by a select number of lords: that the being made a spectacle to such august assembly, and having his faults and weaknesses exposed, must be very mortifying; and it behoved his lordship to recollect himself, and use his utmost caution in his defence, but advised him not to let the disgrace of standing as a felon at the bar too much deject him; or the terrors of justice amaze him; for whatever might lawfully be hoped for, his lordship

might expect from the peers : and if he were dismayed, when he considered how inexorable the rule of law was in the case of blood (which their lordships indeed could not depart from) yet it might be a support to him to consider, that nothing but plain and positive proof, and such as deserved so be called evidence, would be received against him : that their lordships thought themselves bound in honour to be council for him in matters of law ; and that though there were council to plead against him, no skill or arguments could pervert their lordships' justice ; he should not fall by the charms of eloquence, or be depressed by any thing but the burthen of his crime, and even as to that all candid allowances would be made.

Then the prisoner was arraigned, and held up his hand.

The indictment set forth,

That the prisoner, upon the 4th of February, in the thirtieth year of the king, at the parish of St. Martin in the Fields, in the county of Middlesex, did make an assault on Nathaniel Cony, gentleman, and with his right fist did strike the said Cony on the left part of his head, and knocked him down, and being so down, did strike, bruise, beat, and kick the said Cony upon the head, neck, breast, belly, sides, and back, of which striking, bruising, kicking, &c., the said Cony did languish from the said fourth of February until the tenth of the same month, and then died. And so the said Philip, Earl of Pembroke, &c. did feloniously, wilfully, and of his malice aforethought, kill and murder the said Nathaniel Cony against the king's peace, &c.

To which indictment the prisoner pleaded Not Guilty.

Then Sir William Dolben, the King's Serjeant, opened the indictment.

Mr. Attorney in opening the evidence observed, that in law there were two sorts of malice, the one express, i. e. When a man can be proved to have borne before hand an ill will and hatred to the person he killed ; (which they did not pretend to be in this case.) The other sort of malice, which also in law gives the denomination of murder to the killing of a man, is malice implied ; which is, when a man, without any provocation given by the party slain, shall bring another by violence to his death. For the law supposes, that no man without a provocation would kill his brother, unless he had malice to him before-hand ; and this was the

malice they charged the prisoner with, that he killed the deceased without any provocation.

Mr. Attorney having opened the nature of the evidence, the witnesses were called and sworn, and Mr. Henry Goring first gave his evidence.

Mr. Goring deposed, that on Sunday the 5th of February last he and Mr. Cony (the deceased) dined in the city, and staid there very late, and having drunk pretty hard, they called at Long's tavern in the Haymarket in their way home, where Mr. Cony would needs go in, and drink another bottle; that my Lord Pembroke being in a lower room, and hearing Mr. Cony at the bar, came out and asked Mr. Cony (whom he knew,) and the deponent to come in: and that after a while there arising some dispute between my Lord Pembroke and the deponent about families and play, wherein my lord thought himself injured, my lord threw a glass of wine in the deponent's face; and my lord rising up to draw his sword, the deponent laid his hand on his, and Captain Savage stepped between them, and the drawer came in, and shoved the deponent out of the room; that the deponent, as they were thrusting him out, heard a noise behind him, and saw my lord make towards Mr. Cony; that the deponent, when he was out, missing his sword, hat and wig, made a noise at the door, and the landlord getting out of his bed, and coming to him, he desired his things again, and that he might go in and see what they had done with Mr. Cony, for he was afraid he was in danger; but the people of the house persuaded the deponent to go into another room, and said, they would bring Mr. Cony to him: and the deponent having waited pretty long, at last the people of the house came to him, and told him now he might go in if he pleased. And when he came in, he found a gentleman lying along upon the chairs, and no body else in the room; that he took the candle to see if he was wounded, and would have awaked him, but could not; and the drawer said he was only dead drunk, and would come to himself; whereupon the deponent directed the drawer to get some blankets and pillows, and set some chairs to make the place broader, and bid him be sure to watch with him until he waked, which he promised to do; and that the next day Mr. Cony sent to the deponent's lodgings, but the deponent being gone out, he did not go to him until the Tuesday; when Mr. Cony told him, that he was very much abused in my lord's company; that my Lord Pembroke threw him down, and some body trod upon him, and kicked him, and that he expected satisfaction of my lord, and said, he hoped the deponent would carry his lordship a challenge: that the deponent asking Mr. Cony who trod upon him, he answered, he knew not, for he was in a swoon; it was either my Lord Pembroke, or some of his creatures for him.

Att. Gen.—Had you any discourse with him afterwards?

Mr. Goring.—Yes, every day until the Thursday night; and he complained of his belly, his sides, and his shoulders, and said my Lord Pembroke had done him the injury in throwing him down.

Att. Gen.—How long was it, after you was thrust out of the room, that you found him on the chairs?

Mr. Goring.—About half an hour.

Mr. Richard Savage was called.

He deposed, that being in company with my Lord Pembroke at Mr. Long's in the Haymarket, and Mr. Cony making a great noise at the bar, my lord looked out at the door of the room where they were, and seeing Mr. Cony, invited him and his friend Mr. Goring into the room, and after some time falling into discourse, Mr. Goring used some impertinent language to my lord, and told his lordship, he was as good, or a better gentleman than he; upon which my lord threw a glass of wine in Goring's face, and stepped back, and drew his sword; and Goring being about to draw his, the deponent took it from him, and broke it, and persuaded my lord to put up his sword again; but to prevent more words, the deponent shoved Mr. Goring out of the room; and while the deponent was thrusting him out, he heard a bustle behind him, and leaving the drawer to keep Mr. Goring out, he turned and saw my Lord Pembroke strike Mr. Cony, who immediately fell down, and then my lord gave him a kick; and they finding Mr. Cony did not stir, my lord and the deponent took him off the ground, and laid him on the chairs, and covered him up warm.

Att. Gen.—Did my lord kick him but once?

Savage.—My lord kicked him but once that I saw, and that was on the body, and not with a very great force: we chafed his temples, and he opened his eyes, but did not speak; when I asked him if he knew me; he shook his head as if he did, and then closed his eyes again.

Att. Gen.—What condition was he in before that accident?

Savage.—He was very drunk, and, I think, proposed something about play to my lord; but how my lord came to strike him, I cannot tell, for I was putting Goring out of the room.

Att. Gen.—Did you see Mr. Cony after that time?

Savage.—I went two days after to see Mr. Cony, and he asked me, if my lord struck him, for he did not know; but finding himself in much pain, he thought he had fallen partly through drink, and partly through his fits he used to have.

Mr. Shelly called.

He deposed, that he was in the room at Mr. Long's, when Mr. Cony and Mr. Goring came in; that they were both in drink, and after some time Goring proposed play to my lord, and my lord said, he would throw with him for 500l. and was sending for the money, but then Goring would not play, and his lordship said, he believed he

was an idle fellow ; Goring replied, his name was a better name than his lordship's, and himself a better gentleman ; whereupon my lord threw a glass of wine in his face, and Mr. Goring stepped back, and drew his sword, and my lord drew his ; but Savage stepped between them, and put Goring out of the room, and my lord desired Mr. Cony to go out with his friend, but he said he did not know why his friend was put out ; whereupon my lord hit Cony a box on the ear, which threw him down ; and the deponent saw my lord lift up his leg pretty high, as if he would have kicked him, but could not say he kicked him ; and that he saw them lay Mr. Cony on the chairs, as the last witness deposed, and that he was senseless.

Att. Gen.—What do you think was the occasion of it?

Shelly.—I believe his drink, as well as the blows.

Att. Gen.—Did you see him after that?

Shelly.—Yes, I saw him three days after, and on the Saturday ; and he said he had had a fit, and was pretty well recovered, but did not impute any thing to my Lord Pembroke.

Captain Fitz-Patrick called.

He deposed, that Mr. Cony being at the bar at Mr. Long's, my Lord Pembroke saluted him, and invited him and his friend, Mr. Goring, into the room where his lordship and his company were, (as the other witnesses deposed :) that Cony and Goring were both in drink, and after a glass or two Goring said, he would drink, play, or fight with any man ; and my lord asked, who he was, that he should never hear of him ? How, said Goring, 'sblood, not hear of me ! My name is Goring, a name and family as good as any gentleman's in England. Nobody doubts it, said my lord. Your betters, said Goring. And that then my lord threw the wine in his face ; and Goring going to draw, was put out of the room by Savage ; and that my lord upon some words knocked down Cony with his hand ; and the deponent asking my lord the reason of it, my lord said, Cony told him, Goring should not go out of the room, until he knew some reason for it : that the deponent being on the other side of the table, he could not tell whether he stamped on Cony, or kicked him, he only saw my lord's knee move ; that he could not kick him more than once, for they ran in, and took Cony up, and laid him on the chairs, as the other witnesses deposed ; and having covered him warm, and ordered the drawer to take care of him, they left him.

Mr. David Bruce was sworn.

He deposed, that coming to Mr. Cony the Monday after this accident, he found him in such extremity of pain between his shoulders, that he could not bear to be touched ; that having given him something to assuage those pains, he came to him again on Wednesday, and then Mr. Cony complained of pains in his belly, but the deponent could see no blemish either by discolouring, or bruising, and the deponent left him then in a hopeful way of recovery, but did not see him afterwards, having been sick himself : and that the deponent telling Mr. Cony, when he visited him, that there was a

report he had been kicked, he was displeased that any such thing should be reported.

Mr. Hemes was sworn.

He deposed, that he was sent for to Mr. Cony the morning after this accident; that he complained of great pains all over his body, but especially on his shoulders and buttocks; that when the doctor applied plaisters, and ordered him to be anointed, he could hardly bear they should touch him, but that they saw no swelling, or bruise; and he complained of an inward soreness in his belly from first to last; (the deponent being with him every day till he died:) that being opened after he was dead, they found a great deal of blood gathered together on both the hypocondria's in the lower part of his belly, of a blackish livid colour.

Mr. Jackson was called.

He deposed, that he had been acquainted with Mr. Cony (the deceased) above twelve years; that he looked upon him as a person of a strong, healthful constitution, and not subject to any dangerous distemper: that the Wednesday after this accident the deponent went to visit him, and Mr. Cony told the deponent, he had been troubled with very unusual swoonings, and at that time he fell into a fit, that they had a great deal of trouble to recover him out of; that on the Friday and Saturday the deponent was with Mr. Cony all day; and that he complained of great pain in his belly, and said, he believed it was occasioned by some ill usage he had received lately.

Att. Gen.—From whom had he received it?

Jackson.—He said he was drinking with my Lord Pembroke; but he was in such pains, I could not ask him many questions, and he was very sparing in telling whom his hurt came from.

Att. Gen.—When did he complain first of his fits to you?

Jackson.—On the Wednesday; and he died the Monday following.

Alice Avery, Mr. Cony's nurse, was called.

She deposed, that Mr. Cony came home about eight o'clock on the Monday morning, and that he was so very ill, he could scarce stand; that the deponent saying, surely he was in beer, Mr. Cony answered, no, he was very sore, and full of pain, and had been in some company where he had received a great deal of wrong; that he had been beaten and kicked more than ordinary, and was never so abused in his life: and about two hours before he died, he wished to God he had never been in my Lord Pembroke's company, for he did think in his conscience my lord had been the death of him.

Mr. William Brown was sworn.

He deposed, that he was upon the coroner's inquest the day after Mr. Cony died; that his body was prodigiously swelled; that on his right breast there was a great black bruise, and

upon the left a great black spot; that they desired to see his inward parts, and found the caul wasted away, and in the bottom of his belly a great quantity of ill-looking blood.

Mr. Richard Wheeler was sworn.

He deposed, that he was also of the inquest, and observed a great black bruise on the right breast of the deceased, and on the left side of his belly another; and that the whole body was very much swelled; and that there was settled blood in the bottom of his belly.

Mr. Thomas Roberts was sworn.

He deposed, that he saw a great quantity of black congealed blood in the bottom of the belly; that the bruises were as broad as his hand, and the body very much swelled.

Charles Cony, brother to the deceased, was sworn.

He deposed, that being sent for to his brother on Monday the 4th of February, about nine in the morning, he found him almost dying, and his eyes set, but in a little time they recovered him: that understanding my Lord Pembroke had struck him a box on the ear, and knocked him down, the deponent and his brother both concluded how it came, though his brother (the deceased) could not remember what was done; and therefore, to know the truth of the matter, they sent for the drawer, who assured them my lord never struck him; and that in the afternoon the drawer persisted in the same story: that all the while his brother was in the most horrid pain that could be, and could not bear to be touched, but was forced to lie upon his back; but that at length some applications being made, on Tuesday he was pretty much at ease, on Wednesday he rose, and on the Thursday he was so well, that he would have some friends to dine with him in his chamber: on Friday he was a little ill again, but on Saturday he was so well, that he would have gone abroad: that Dr. Conquest told the deponent, he could not tell whether it was a Pembroke kick, or no; and the deponent did not think he would have died, until about two hours before he did; and that when the deponent mentioned the report of my lord's having abused him, he was displeased, that any one should speak of it.

Then Mr. Jackson, the surgeon, was called again, and deposed, that he was present at the opening of Mr. Cony's body, and found an extraordinary quantity of extravasated blood at the bottom of his belly; that there was also a swelling, and the diaphragma was bruised: that he believed, this was occasioned by some violence, that was done to him.

The prisoner's witnesses being called, Dr. Conquest appeared.

Dr. Conquest deposed, that the first time he waited on the deceased Mr. Cony, as a physician, was about three months before this accident, when he was sent for to him to the Rose tavern: that he had then been in a fainting fit, and had lain as dead for half an hour, as the deponent was told, but by some applications, that had been used, he was just coming to himself, as the deponent came in, though he had then no pulse, and was like to relapse again; but giving him some drops and a cordial, the deponent sent him home pretty well. that the next day the deponent attended the deceased again at his

lodging, and found him very ill and melancholy, in so much that he wept, and said, he found so great an oppression at his heart, that he could hardly speak, but that the deponent could not dissuade him from going abroad; that he went out that day, and drank very hard, and did not return until it was late: that the deponent had been sent for twenty times to recover him out of his fits, but he would take no advice: that the deponent was sent for the day after this meeting with my Lord Pembroke, and found the deceased in great pain, but so ignorant of what had passed the night before, that he only thought he had some falls off the chairs near the fire: that two or three days after the deceased sent for the deponent, and said, he would take his advice, and enter into a course of physick; but the deponent knowing his case to be very bad, proposed the having another physician, and on the Saturday brought Dr. Lower with him: that when they were with the deceased, he acknowledged he had been a hard drinker of wine and strong waters upon it, which the deponent believed, caused the stagnation of blood in his body, and might occasion the fainting fits: that the deceased owned no blow nor kick he had received, and the deponent believed his entrails had received no prejudice, because he saw him take two or three clysters: that this very Saturday night he was so irregular, that he drank three whole tankards of cold small beer, which gave him a violent fit of the gripes; and the deponent being sent for again, the deceased had vomited all night, and he found him dying away; that having brought him to himself again, he still continued very bad, but still swore he would have more small beer: that the day Mr. Cony died, the deponent attended him again, and ordered eight ounces of blood to be taken from him, and returning an hour after, he found him dead — That the deponent saw him opened, and there was clotted blood among the bowels; the breaking out of which he attributed to the great quantity of small beer the deceased had drunk, and the gripings that followed upon it, (and said, Mr. Cony himself attributed his fits to that) and that the bowels were none of them touched.

Long, a vintner in Covent-garden, was called.

He deposed, that a little before this accident Mr. Cony was taken with fainting fits at his house, and sent for Dr. Conquest; and when the doctor came, Mr. Cony told him he was taken with his fainting fits, and feared they would kill him: whereupon Dr. Conquest bid him have a care of drinking, or it would ruin him.

Viner, Long's drawer in the Hay-market, called.

He deposed, that he came into the room just as my Lord Pembroke struck the deceased, and that Captain Savage bidding the deponent keep out Goring, he knew not what more was done then; but afterwards having laid the deceased upon chairs, they charged the deponent to make a fire, and look after him, and left him: that the deceased fell off the chairs several times, and the deponent helped him up again: that when he came to himself he said he was very sick, and had several fainting fits; and that at seven in the morning they sent him to his lodgings in a chair: that when the deponent was sent for by the deceased and his brother, he did not think fit to tell them my lord struck him, but only told them he had

several falls in the room; and the deceased answered, it was fits that he had been troubled with, occasioned by his hard drinking, and not looking to himself: he could not tell anything my lord did to him, he was drunk that night, and therefore sent for the deponent to know how it was.

Ld. High-Steward.—Will your lordship say any thing for yourself?

Earl of Pembroke.—I have nothing more to say, my lord.

Mr. Solicitor having summed up the evidence for the king, and defined what murder in our law was, as Mr. Attorney had done in opening the evidence, the lords went to their house above, and after two hours debate returned, and having taken their places, the Lord High-Steward, beginning with the puisne baron, (my Lord Butler) demanded of their lordships severally in their order, if Philip Earl of Pembroke and Montgomery were guilty of the felony and murder whereof he stood indicted, or not guilty? And my Lord High-Steward having numbered them, declared, that six of their lordships had found the prisoner guilty of murder, eighteen had found him not guilty, and forty had found him guilty of manslaughter. Then the prisoner was commanded to be brought to the bar again, and the Lord High-Steward acquainted him, that the judgment of the lords was, that he was guilty of manslaughter; and demanded what he could say, why judgment should not pass upon him to die, according to law?

The Earl of Pembroke answered: he claimed the privilege of the statute.

The Lord High-Steward told him, he must have it; for as by the act, clergy was allowed to a commoner by reading and burning in the hand, a peer convicted of such felony was to be delivered without either: but his lordship would do well to take notice, that no man could have the benefit of that statute but once.

WILLIAM STALEY, GOLDSMITH,

FOR TREASON, 1678.

THE prisoner was indicted,

“For that he not having the fear of God before his eyes, &c. and traitorously compassing, imagining and intending the death of his Sovereign, did on the fourteenth day of November, in the thirtieth year of the King, at the parish of St. Paul, Covent-Garden, in the county of Middlesex, speak certain words in French, importing, that the King was a great heretic, and the greatest rogue in the world ; and laying his hand on his breast, said further “there is the heart and here is the hand, that would kill him. And the King and parliament think all is over, but the rogues are mistaken.” Which were laid to be spoken contrary to his allegiance, the king’s peace, &c.

The prisoner being arraigned on the 20th of November, at the King’s-bench bar on this indictment, pleaded not guilty ; and on the day following, was brought down to his trial. The jurors being called, and the prisoner challenging none of them, a jury was sworn, and charged with him, and the King’s counsel having opened the indictment and the evidence, the witnesses were called, and first.

Mr. William Castors was sworn.

He deposed, that the prisoner and one Fromante, another Frenchman, being at the Black Lion ale-house, in King-street, the fourteenth of this present month, about eleven in the morning, Fromante said in French, “that the King of England was a tormentor of the people of God ;” and the prisoner answered again in French, in a great rage, “he is a great heretic, and the greatest rogue in the world ;” and striking his hand upon his breast, and stamping five or six times added, “there is the heart, and here is the hand, that would kill him, and the king and parliament think all is over, but the rogues are mistaken.” That the deponent was in a room opposite to that the prisoner and Fromante were in, and both doors being open, he saw him, and heard him speak these words, and was confident the prisoner was the person, for that he looked towards the deponent when he spoke them. And the next day deponent caused the prisoner to be apprehended.

Mr. Alexander Southerland was sworn.

He deposed, that he was with the other witness at the said ale-house, when the prisoner spoke those words in French ; that he saw Mr. Staley perfectly, when he spoke the words, the doors being open, and that he immediately wrote the words in French, as they were spoken. [And the paper which the deponent wrote, being shewn to one of the jury, who understood French, the jury-man said they had been well rendered into English.]

Philip Garrat sworn.

He deposed, that he was with his Captain, [William Castors, the first witness] at the ale-house, and that the deponent not understanding French himself, his captain told him, that the prisoner said he would kill the King; that the captain said, this was not to be suffered; that he would run and call a constable, and bid the deponent enquire the prisoner's name, and where he lived, which the deponent did.

The prisoner said in his defence, that he was indeed at the place the witnesses had testified at the time they mentioned, with Mr. Fromante; but that their conversation was as usual, on the happiness of this government, compared with that in France: that he never mentioned the King's being an heretic, but conversed as innocently as ever he did in his life. That he might say, he would kill himself, which the witnesses understood of the king. That he had been looked upon as a person of intelligence and understanding in the world, and it could not be supposed he should speak these words in French in a public room, with the doors open, and so loud, that the gentlemen in the next room might hear them, especially in a street where they were almost all Frenchmen. That he abhorred the words he was charged with, and was a great admirer of his prince.

The Chief Justice then ordered the statute of 13 Car. to be read, on which the prisoner was indicted, which says, "that whoever shall compass or imagine the death of the King, and declare the same by printing, preaching, advised speaking, &c. shall be adjudged traitors."

The prisoner called a witness to his character, who deposed, that he had often heard the prisoner speak very loyally of his prince, and that he detested the principles of the Jesuits.

The Lord Chief Justice summed up the evidence, and inveighed against the principles of the papists, and expressed his apprehensions of the dangers the King and government were exposed to by their plots. He shewed, that the words were advisedly and maliciously spoken; that they had been fully proved, and could bear no other interpretation than what had been put upon them. He hoped that the jury would discharge their consciences, as they ought to do; and if the prisoner was guilty, let him take the reward of his crime; that

they would do well to begin with this man, and perhaps it might be a terror to the rest.

The jury having considered of their verdict, brought the prisoner in guilty, and sentence was pronounced on him as a traitor.

EDWARD COLEMAN, GENTLEMAN,

FOR HIGH TREASON. 1678.

MR. COLEMAN having been arraigned and pleaded not guilty the Saturday before, he was this day brought to the King's Bench bar again; and the jurors being called, Mr. Coleman made no challenges, when the jury was sworn.

The indictment set forth,

“ That the said Edward Coleman, as a false traitor to his majesty, not having the fear of God before his eyes, or weighing the duty of his allegiance, but contriving to disturb the peace of the kingdom, and destroy the true religion by law established, and to stir up sedition and rebellion, and bring the King to his death; did on the ninth day of September, in the the twenty-seventh year of the King, at the parish of St. Margaret, Westminster, in the county of Middlesex, maliciously and traitorously compass, imagine, and intend to raise rebellion, and to depose and put the King to death, &c. And to effect his said treasons, did at the day and place aforesaid, traitorously contrive and write two letters to Monsieur le Chese, then servant and confessor to the French King, to procure for himself and other false traitors, of the said French King, aid and assistance against his said Sovereign, in order to alter the true religion established in this kingdom, to the Romish superstition, and subvert the government of this Kingdom. And that afterwards at the same day and place, he did compose and write two other letters to the said Monsieur le Chese, to the same effect. And the indictment further sets forth, that afterwards the same day, he caused the said letters to be sent beyond sea, to the said Monsieur le Chese. And that the said Edward Coleman afterwards, viz. the first day of December, in the said twenty-seventh year of the King, in the parish of St. Margaret aforesaid, did receive a letter from the said Monsieur le Chese, in answer to one of the aforesaid letters; and in the said answer, aid and assistance was promised from the French King. And that the said Edward Coleman did traitorously read over, peruse and conceal the said answer, And that the said Edward Coleman afterwards, viz. the tenth day of December, in the said twenty-seventh year of the King, at the parish of St. Margaret aforesaid, did reveal his said treasons to Monsieur Revigni, then envoy from the said French King, to his Majesty, and residing in the said parish of St. Margaret aforesaid, and did traitorously move and excite the said

envoy to partake in his said treasons. And that he did afterwards, (viz.) the said tenth day of December, write and send three other letters to Sir Nicholas Throckmorton, then residing in France, to solicit the said Monsieur le Chese, to procure aid and assistance of the French King, as aforesaid. All which is laid to be against the King's peace, his crown and dignity, &c."

Mr. Recorder opened the indictment.

Mr. Serj. Maynard opened the general parts of the evidence, and afterwards Mr. Attorney (Sir William Jones) opened the evidence more particularly.

After which Mr. Coleman said, it was hard he might not be allowed counsel, when crimes were charged against him with such skill and advantage by great men, and himself ignorant in these matters, and hoped his Lordship would be of counsel for him, and not suffer him to be lost through his ignorance in such proceedings. He said, he observed the premises were strong and artificial, but he must deny the conclusion, for he could safely and honestly say, he was not a traitor.

The Chief Justice answered, he was a better statesman than a logician, for they never deny the conclusion. That he needed no counsel, because the labour lay on the other side, who were to make out and prove their charge; and that the proof must be plain upon him, and then it would be in vain to deny the conclusion.

Mr. Coleman said, another thing that seemed most dreadful, was, the violent prejudices against every man in England, who was a Roman Catholic, insomuch, that if one of that persuasion, who was never so innocent, should appear at that bar, prejudice would so bias human nature, that unless his Lordship leaned extremely on the other side, justice would hardly stand upright.

After some other interlocutory passages between the court and the prisoner, Mr. Attorney desired to proceed, and call his witnesses, and

Mr. Oates was sworn.

He deposed, that Mr. Coleman entertained one John Keins in his house, who was confessor to the deponent and several others. That the deponent went to Mr. Coleman's to visit Keins; and Keins telling Mr. Coleman that the deponent was going to St. Omers, Mr. Coleman said he would send a letter by him, and he would leave it for him with Mr. Fenwick, the procurator of the Jesuits in London. That accordingly the deponent had a letter at Mr. Fenwick's and carried it to St. Omers, and was at the opening of it, and read it; that it was a letter of news, and called Mr. Coleman's letter by the fathers, but not subscribed by him. That Mr. Coleman

desired the fathers in the letter to recommend him to his kinsman Playford, and in the same letter he called the King a tyrant, and said that the marriage between the Prince of Orange and the Lady Mary, the Duke of York's eldest daughter, would prove the traitor and the tyrant's ruin.

That there was another letter inclosed in it, to Father le Chese, which was superscribed by the same hand, but subscribed by no body. That this letter was written in Latin, (the other was in English) and thanks was given to le Chese, in the name of the whole society, for the ten thousand pounds which was sent them into England, and assured him, it should be employed to the intent for which it was paid. Now this was in answer to a letter sent by le Chese, which had this instruction in it, viz. that the ten thousand pounds should be employed to cut off the King of England. This letter from le Chese he also saw and read, and as he remembered, it was dated in the month of August.

Ld. Ch. Just.—To whom was this letter from le Chese directed?

Oates.—To Strange who was provincial to the society in London.

Ld. Ch. Just.—How came Mr. Coleman to answer it?

Oates.—Strange having hurt his hand, Mr. Coleman wrote it by his directions; and I carried this answer to le Chese, and it was wrote in the same hand the letter of news was, but was not subscribed: when I gave le Chese the letter, he asked me, how a gentleman did (by a French name) whom I understood to be Mr. Coleman? This letter acknowledged the receipt of the letter from le Chese, and assured him, all endeavours should be used to cut off the protestant religion root and branch: I saw the letter at St. Omers.

Ld. Ch. Just.—How came you to see it?

Oates.—I had a patent from them to be of the consultation.

Attor. Gen.—I desire he may give an account of the consult; and how far Mr. Coleman was privy to the murdering of the king.

Oates.—In the month of April, O. S. there was a consultation of the Jesuits, held at the White-Horse Tavern (in the Strand,) where having agreed to send Father Cary procurator to Rome, they adjourned themselves to several clubs in companies; some met at Wildhouse, some at Harcourt's lodgings in Duke-street, some in Ireland's lodgings in Russel-street, and some in Fenwick's lodgings in Drury-lane: and it was resolved that Pickering and Groves should go on with the design of assassinating the king by shooting, &c. for which Groves was to have fifteen hundred pounds, and Pickering (being a religious,) thirty thousand masses. This resolve was communicated to Mr. Coleman at Wildhouse in my hearing; and in

several letters Mr. Coleman has mentioned it, and particularly in a letter to Ireland, which I saw and read, he desired the Duke might be trepanned into this plot to murder the king.

Ld. Ch. Just.—How do you know it was Mr. Coleman's letter?

Oates.—Because I saw Mr. Coleman take copies of the instructions, and this letter was the same hand, and the same with the news letter I have mentioned before.

Mr. Just. Wild.—Did you hear Mr. Coleman say he agreed to the design of assassinating the king by Pickering and Groves?

Oates.—I heard him say at Wildhouse he thought it was well contrived.

Attor. Gen.—Do you know of any rebellion to be raised in Ireland.

Oates.—In the month of August there was a consultation between the Jesuits and the Benedictine monks at the Savoy; and a letter was produced, written by Talbot, the Titular Archbishop of Dublin, giving an account, that the pope's legate, the bishop of Cassay, had asserted the pope's right to the kingdom of Ireland; and that the Irish were ripe for rebellion; and that four Jesuits had contrived to dispatch the Duke of Ormond; and Dr. Fogarthy was present at the consult, and it was agreed to send him to Ireland to poison the duke, if the four Jesuits did not succeed: and Mr. Coleman came to this consultation in the Savoy, and was very forward to have Fogarthy sent over to dispatch the duke. Another letter mentioned, that 40,000 black bills were provided to be sent to Ireland by the popish commissioners, for the use of the Catholics there. Mr. Coleman was the main agent at this consult, and a week before this consult I heard him tell Fenwick, that he had found a way to transmit the two hundred thousand pounds for carrying on the rebellion in Ireland: he said it at Fenwick's chamber in Drury-lane.

Attor. Gen.—Do you know any thing of transmitting money to the ruffians at Windsor?

Oates.—The same night the consultation was held, Dr. Fogarthy procured four ruffians, and sent them to Windsor, as had been agreed; and the next day there were eighty pounds provided for them by Harcourt, the rector of London, who acted for the provincial in his absence: and Mr. Coleman met Harcourt at Wildhouse (having first called at his lodgings) and asked, what care was taken for those four gentlemen, that went the last night to Windsor, and Harcourt told him eighty pounds were provided, and the messenger was there who was to carry it; whereupon Mr. Coleman gave the messenger a guinea to hasten his journey: I saw the money lying before Mr. Harcourt upon the table; the most part of it was in guineas.

Recorder.—Do you remember Mr. Coleman's discourse with Ashby?

Oates.—In July last, Ashby being come over from White the provincial (who was then in Flanders) brought over instructions to the conspirators at London, to propose ten thousand pounds to Sir

George Wakeman to poison the king, in case Pickering and Grove did not kill him; and Mr. Coleman waited on Mr. Ashby (who was ill of the gout,) and read these instructions, and copied them out, and transmitted them to several of the conspirators; and Mr. Coleman said, he thought Sir George Wakeman would scarce take ten thousand pounds, and thought five thousand pounds more ought to be added to it, that they might be sure to have it done. This he said at the provincial's chamber at Wildhouse, where Mr. Ashby lodged, until he went to the Bath.

Ld. Ch. Just.—To what purpose should Coleman take copies of these instructions?

Oates.—It was to send to the conspirators, to encourage contributions in England, by shewing them what was done abroad; and by this means some thousands of pounds were raised here.

Ld. Ch. Just.—Did any one ask Mr. Coleman, why he took copies of these instructions?

Oates.—Ashby said, he had best make haste, and communicate these things; and Mr. Coleman answered, he would make haste with his copies, and dispatch them away that night.

Recorder.—Was not Mr. Coleman to be one of the secretaries of state?

Oates.—The day after our consultation in April, O. S. I was at Mr. Langhorn's chamber in the Temple, and among several other commissioners (which we called patents) I saw one for Mr. Coleman, signed by the general of the society of Jesus, Joannes Paulus D'Olivia: I believe I have seen forty things in this hand, and we all took it to be his, and knew the seal, which had the letters J. H. S. upon it. This commission Mr. Coleman received and opened at Mr. Fenwick's chamber, when I was present, and he said, it was a very good exchange.

Ld. Ch. Just.—Were you acquainted with Mr. Langhorn?

Oates.—He had two sons in Spain, from whom I brought letters to their father in November, 1677, and Mr. Langhorn received me very kindly at his chambers in the Temple on that account, but was not willing any Jesuits should come to his house, because his wife was a Protestant—I was at his chambers several times, and was ordered by the provincial to carry him a summary of the results and particulars of the consultations at the White-horse and at Wildhouse.

Ld. Ch. Just.—When did you see the commissions?

Oates.—In the month of April, O. S. I heard they were come; and having a curiosity to see them, he shewed them to me, knowing I was privy to their concerns. I read the letters, giving an account of their being sent, at St. Omers in January before.

L. Ch. Just.—What time did you come over to the consultation?

Oates.—I received a summons to come over to the consultation in April, and accordingly nine of us, all Jesuites, came over?

Mr. Just. Dolben.—Did not you say you came to Mr. Langhorn's in November?

Oates.—Yes: That was before I went to St. Omers.

Att. Gen.—How many priests and Jesuites have you known in England lately?

Oates.—I have known eightscore secular priests, and fourscore Jesuites; and in the catalogue I think there were three hundred and odd.

Ld. Ch. Just.—When did you see the commissions at Mr. Langhorn's?

Oates.—That very day I gave him an account of the consultation, which I think was the last day I ever saw him.

Att. Gen.—Name those who came over with you from St. Omers.

Oates.—As I remember, they were the rector of Liege, father Warren, Sir Thomas Preston, the rector of Wotton, Francis Williams, Sir John Warner, father Clarges, one Pool a monk, and I think I made the ninth.

Coleman.—This witness, who is so extremely well acquainted with me now, and pretends to have such an intimacy with me, in his examination before the council, told the king, he never saw me before: and I declare I never saw Mr. Oates but at that time.

Oates.—I said before the council, I would not swear I had seen him before, because it was candle light, and I cannot see a great way by candle light; though when I heard him speak, I could have sworn it was he, but it was not then my business.

Ld. Ch. Just.—The stress of the objection lies not so much upon the seeing, but that you laid no more to his charge at that time.

Oates.—I did design to give no more than a general information against Mr. Coleman then; for prisoners may defeat the witnesses, when they know the circumstances of time and place before hand: besides, I was so weak and tired, having been up two nights taking of prisoners, that I was not able to stand upon my legs.

Ld. Ch. Just.—You here charge Mr. Coleman with

so many desperate practices against the king's life, how came you not to mention them at the council table, especially when they were about to dismiss Mr. Coleman, and let him go at large?

Oates.—If I had apprehended that, I should have given a farther account, but he was at that time committed to a messenger, and two days after sent to Newgate, and his papers seized: and when I was before the council, I said, if Mr. Coleman's papers were searched, they would find matter enough against him to hang him.

Coleman.—I appeal to Sir Thomas Doleman, if Mr. Oates did not say he did not know me.

Sir Tho. Doleman.—He said he had no acquaintance with him, to the best of my remembrance.

Ld. Ch. Just.—Was Mr. Coleman examined before Mr. Oates spoke? Sir Tho. Doleman.—Yes.

Ld. Ch. Just.—Mr. Oates you said here, when you heard his voice you knew him; why did you not say before the council then, that you did know him?

Sir Robert Southwell.—Mr. Oates did say before the council, that five of the fifteen thousand pounds, which Sir George Wakeman was to have for poisoning the king, was paid by Mr. Coleman.

Ld. Ch. Just.—This answers much of that objection, why he charged Mr. Coleman so slightly. For it seems he did charge Mr. Coleman with paying five of the fifteen thousand pounds.

Coleman.—The charge was so slight, that though the first order was to send me to Newgate, Sir Robert Southwell came with directions to the messenger not to execute it.

Sir Robert Southwell.—There was a warrant out on Sunday night for Mr. Coleman and his papers, and on Monday he surrendered himself at Sir Joseph Williamson's house, and he did with great indignation and contempt hear these vile things, as thinking himself innocent, and made so good a discourse for himself, that though the lords had filled up a warrant to send him to Newgate, they thought fit to respite it, and he was only committed to a messenger; but his papers being read, some of them sounded so strangely, that they afterwards signed a warrant to send him to Newgate.

Bedlow sworn.

Att. Gen.—Have you seen or heard any thing of Mr. Coleman's commission?

Bedlow.—Sir Henry Titchburne told me, that he brought a commission from Rome for Mr. Coleman to be principal secretary of State, and that there were commissions for others: and I have carried over a large packet of letters from Mr. Coleman to Le Chese; and brought answers from Le Chese and the English monks at Paris about carrying on the plot for destroying the king, and subverting the government and the protestant religion.

Ld. Ch. Just.—Who was the letter that Le Chese wrote directed to?

Bedlow.—The packet was directed to Mr. Harcourt, but there was a letter inclosed, directed to Mr. Coleman; and I had another Packet of Mr. Harcourt, which I saw Mr. Coleman give him, and I delivered it to the English monks at Paris; and they said I deserved to be well rewarded by the pope and the church; and that they would neglect their design no longer than the next summer, having all things ready to begin in England: I went with the packet from the monks to Mr. Coleman's house behind Westminster Abbey with Mr. Harcourt; and after Mr. Harcourt had talked with Mr. Coleman, I was called in, and heard Mr. Coleman say, if he had a hundred lives, and a sea of blood to carry on the cause, he would spend it all to establish the church of Rome in England; and if there were an hundred heretical kings to be deposed, he would see them all destroyed.

Coleman.—Did I ever see you in my life?

Bedlow.—In the stone gallery at Somerset-house, when you came from a consultation, where were great persons, which I am not to name here; (that would make the bottom of your plot tremble, if I should,) you saw me then.

Mr. Bradley sworn.

He deposed, That on Sunday the 29th of September, having a warrant from the council to apprehend Mr. Coleman, and seize his papers, he went to his house, and his wife told him he was welcome to search, but Mr. Coleman was not at home: that the deponent found papers in several parts of the house, and put them up in bags; and he found a deal box with papers nailed down, in a private corner behind the chimney in Mr. Coleman's chamber: that he sealed up the box and bags, and brought them all to the council table.

Then a letter was produced, which Sir Thomas Doleman deposed, was one of the papers which Bradley brought to the council in the deal box.

Att. Gen.—We shall prove it once for all, that all these papers were of his hand writing.

Boatman, Mr. Coleman's gentleman, was sworn.

Att. Gen.—Look upon those papers, and turn them over.

Boatman.—I believe them all to be Mr. Coleman's hand; and a packet of letters was sent Mr. Coleman, from beyond sea, two or three days after he was taken.

Ld. Ch. Just.—Did you receive Mr. Le Chese's letters for Mr. Coleman?

Boatman.—Yes; but I never wrote any for him to Mr. Le Chese. There was a large book my master did use to enter his letters in, and his news: I saw it last Saturday, but cannot tell where it is now.

Att. Gen.—Did not he write and receive letters from beyond sea, until he was taken up?

Boatman.—He had usually letters every post from beyond sea.

Coleman.—There are letters from the Hague, Brussels, France, and Rome, before the council; which are all the letters I received.

Cattaway sworn.

He deposed, That the letters were Mr. Coleman's hand-writing he believed.

Sir Philip Lloyd also deposed, That the letter they were about to read, Mr. Coleman owned to be his hand-writing.

Then a letter dated the 29th of September, 1675, unsubscribed, was read; importing,—

“ That Mr. Coleman acknowledged the favour of father St. Germain, in recommending him to Monsieur Le Chese for a correspondent. He acquaints him with the correspondence that was between himself and Mr. Ferryer, (predecessor to Le Chese;) and tells him, that correspondence first begun when the king sent a troop of horse-guards into the service of the French king, under the Lord Durass. That Sir William Throckmorton being an intimate acquaintance of Mr. Coleman's, and an officer in that troop, he had an opportunity by him to write and address himself to Mr. Ferryer frequently. That the first thing of importance he offered to Ferryer's consideration was in autumn, 1673, soon after the revocation of the king's declaration for liberty of conscience; (to which he imputed all the miseries of the Catholics:) that he then inculcated the danger the Catholic religion and the French king's interest would be in at the next meeting of the Parliament, and particularly by a peace with Holland. But that what he offered was then looked upon as a zealous mistake; the English and French ambassadors, and King Charles himself, being of opinion those apprehensions were groundless: that when things fell out according to Mr. Coleman's expectations, father Ferryer desired a continuance of the correspondence by Sir William Throckmorton, which Mr. Coleman was willing to comply with, as knowing that the interest of the king, and (particularly) of his immediate master the duke, and his most Christian Majesty, were inseparable. That then he shewed Mr. Ferryer, that as we had been forced from our active alliance with France the last year, we should certainly be forced from our neutrality at the next meeting of the Parliament. That Mr. Ferryer having communicated this matter to the French king, he gave him orders to signify

to his Royal Highness, that he esteemed both their interests as one; and that if his Royal Highness would endeavour to dissolve this Parliament, his most Christian Majesty would assist him with his power and purse to get a new one for their purpose; and if his Royal Highness would propose what he thought conducive to his own advantage, or the advantage of religion, his most Christian Majesty would do what he could to advance both, or either. These offers Sir William Throckmorton sent Mr. Coleman, June 2, 1674; which having communicated to his Royal Highness, he was commanded to return an answer to them, which he did the 29th of the same month: importing, that his Royal Highness conceived their interests to be both one; and that the present Parliament were very dangerous to them, and therefore it was necessary they should be dissolved; and if the French king would make the same offer of his purse to the king of England he had done to his Royal Highness, he believed he might succeed, with the assistance they should give him here; and if this Parliament were dissolved, there would be no great difficulty in getting another, that would be more useful.

"Mr. Ferryer seemed sensible of the advantage all parties would reap by this proposal; but happening to fall sick, had not an opportunity of waiting on the French king for a considerable time; but as soon as he was able, he acquainted the French king with it, and wrote to the duke himself, as he did to Mr. Coleman, on the 15th of September, 1674, and sent his letters by Sir William Throckmorton, who came express on that errand; and assured his royal highness that Monsieur Rouvigny had orders to treat with him, as to the matter of money, and observe his directions as to that; but as to any proposition about religion, he was desired to communicate it to Father Ferryer, or Monsieur Pompone: Hereupon the duke expected daily, when Monsieur Rouvigny should speak to him of the matter; and on the 29th of September (being the night before the king and duke went to Newmarket) he told his royal highness that he was commanded by his master to give him the most firm assurance of his friendship, but made no mention of any particular orders relating to Father Ferryer's letter; and that father soon after dying, the duke gave over all further thoughts of prosecuting that project: that Mr. Coleman believed Mr. Rouvigny was in expectation they could have obtained the dissolution of the parliament themselves, they having procured it to be prorogued to the 13th of April, and was willing to save his master's money: that he had several discourses with Monsieur Rouvigny concerning his master's advancing 300,000*l.* and did say to him he wished the French king would give them leave to offer it to King Charles; and shewed him, that a peace would certainly follow a dissolution, (which Monsieur Rouvigny agreed) and that it would save his most Christian Majesty ten times the sum they asked. That he mentioned this also to Mr. Pompone, who seemed to approve it, but said, his most Christian Majesty could very ill spare such a sum. That the Duke did not indeed appear in this matter himself, having such ill success before, when the thing came into Monsieur Rouvigny's hands; yet that he (Mr. Coleman) continued to press the dissolution of a Parliament, as believing all prorogations did but strengthen the opposite party; for the longer they were kept off, the king's necessities encreased, and consequently their

power would be the greater when they met, if ever they did. That he pressed for a dissolution until February last, but then their circumstances were so totally changed, that they were obliged to be as much for the Parliament's sitting, as they were before against it: the ministry, who before were their friends, having rendered themselves obnoxious to the Parliament, had no way to ingratiate themselves with them against their sitting, but by appearing zealous against popery, and putting the penal laws against the Catholics in execution: this being a proceeding levelled so directly against the duke, and by people whom he had advanced, and who had hitherto professed so much duty to him, put him upon taking new measures: he saw that the ministry would sacrifice France, religion, and his Royal Highness too to their interest; and he saw no expedient to stop them in their career of persecution and destructive counsels, but a Parliament; for they had such a rooted dislike to that ministry, that they would run counter to whatever measures the ministry seemed inclined to, and be as little for persecution then, as they had been for popery before: and he assured Monsieur Rouvigny (as he would testify) that the next sessions would do neither of them any hurt, though they could not expect much good from them, wanting those sums the Dutch and Spaniards employed in making friends: that indeed the Lord Treasurer, Lord Keeper, the bishops, and such as called themselves Old Cavaliers, were against them to a man, looking upon the duke as patron of France, and the Catholic religion: but then they had the Presbyterians, Independents, and other sects, who were as much afraid of persecution, as themselves: and the enemies of the ministry, and particularly of the Lord Treasurer, (who was grown almost sole manager) these they had on their side, and did not fear preventing what was designed against them, and rendering the sessions ineffectual, at least to their end, though they might not be able to compass their own. And he confesses he did communicate these things to Monsieur Rouvigny, and shamefully beg his master's help, and that he would assist them but with 20,000*l.* and with that supply he would have made it evident to the duke, that he should not have missed of such an interest, as that he should have been restored to all his places: that he was upon the point of having the duke's consent to propose it to the Parliament, that they would address the king to put the Fleet into his hands, and had he had money to have managed his interest, he should have carried his point, but the duke weighing the consequences if he should miss in such an undertaking, he thought fit not to venture then: that he took the case to be much the same, as it was the last sessions; and if they could advance the duke's interest one step, they should put him out of the reach of chance for ever; for he made such a figure already, that cautious men did not care to act against him; and if they could gain a little addition of power, all would come over to him, as the only steady centre of our government, the Catholics would be at rest, and his most Christian Majesty's interest would be secured in England.

"In order to this, they had two great designs in view the next Parliament; one to put them upon addressing the king to put the Fleet into his Royal Highness's hands, and the other to get an act for liberty of conscience; and if the French King would advance but

20,000*l.* he would be sacrificed, if they did not succeed: that he did not think Monsieur Rouvigny would be so zealous in these points, as a good Catholic, because they would give the greatest blow to the Protestant religion here, that ever it received since its birth: that if these steps were taken, then a dissolution might prove advantageous; otherwise they should but change masters (a parliament for ministers) and continue under the same bondage as before: but if the duke were once set above them, they should not fear the ministry, they should be established beyond opposition, every one would come over to them, and worship the rising sun.

“That having thus represented their case, he hoped his reverence would lay it to heart, and afford them what help he could both with the King of Heaven by his holy prayers, and with his most Christian Majesty; (whose zeal and piety gave him the greatest hopes) and if ever his Majesty’s affairs or his own could want the service of so inconsiderable a creature, none would be readier to obey their commands, or more faithful in the execution, than, &c.”

A letter in French from le Chese, dated October 23, 1675, being an answer to the former, was then read in Court, first in French, and afterwards in English, as follows:—

SIR,

THE letter which you gave yourself the trouble to write to me came to my hands but last night. I read it with great satisfaction; and I assure you, that its length did not make it seem tedious. I should be very glad on my part to assist in seconding your good intentions; I will consider of the means to effect it; and when I am better informed than I am as yet, I will give you an account, to the end I may hold intelligence with you, as you did with my predecessor; I desire you to believe that I will never fail as to my good will for the service of your master, whom I honour as he deserves, and that it is with great truth, that I am, &c.

D. L. C.

A declaration was then read, which Mr. Coleman had prepared in the name of his Majesty, containing reasons for dissolving the Parliament, and calling a new one.

After this another letter was read, which Mr. Coleman had prepared in the name of the duke to Monsieur le Chese, and which Sir Philip Lloyd deposed, that Mr. Coleman confessed to a committee of Lords in Newgate, he prepared without the duke’s privity, and that when he shewed it the duke, he was angry and rejected it.

“This letter acknowledges the French king’s kindness in offering his purse and assistance against the designs of the duke’s enemies; and tells him he has the same opinion of the Parliament and the Lord Arlington, that the French king had, (*viz.*) that they were not in the interest of the king his brother, of his Catholic Majesty, or himself; and that it was necessary they should use their joint credit to prevent their ill designs: and then he repeats what steps had been taken in Father Ferryer’s time, (as are mentioned in Mr. Cole-

man's first letter) and adds, that having expected the effects of those offers made him by the French king (in Father Ferryer's time) to this very hour, and finding nothing done, and seeing on the other hand that my Lord Arlington and several others endeavoured by a thousand deceits to break the good intelligence which was between the king his brother, his most Christian Majesty, and himself, and to abuse them all three, he thought fit to advertise him of it, and desire his friendship and assistance to prevent their ill designs: as to any thing farther he left it to Sir William Throckmorton and Coleman, to inform him of the true condition of England; that they were firmly in his interests, and he might trust them without any apprehension."

Another letter from Mr. Coleman to Monsieur le Chese was read; wherein Mr. Coleman mentioned the letter he sent the 29th of September, and tells him, the Parliament drawing on, he had sent him a cypher, which he should write in, when he had any thing of importance; and when any thing was to be imparted, that he did not think fit to trust to a cypher, he should write it in juice of lemon between the lines: he proceeded with these expressions, We have here a mighty work upon our hands, no less than the conversion of three kingdoms, and by that perhaps the utter subduing of a pestilent heresy, which has domineered over a great part of this northern world a long time: there never was such hopes of success since the death of our Queen Mary as now in our days, when God has given us a prince, who is become (may I say a miracle) zealous of being the author and instrument of so glorious a work; and that which we rely on, next to Providence and the favour of my master the duke, is the mighty mind of his most Christian Majesty, whose generous soul inclines him to great undertakings. He then went on to shew, that they were a little unhappy in having Monsieur Rouvigny his Majesty's minister at this court, in that they dare not communicate to him the most material part of their design (i. e. the business of religion, Rouvigny being a Protestant:) that had he been a minister, who would have taken their case to heart, and represented it justly to his most Christian Majesty, he did not doubt he would have assisted them with such a supply of money as would have put their mutual interests out of danger for the time to come: but wanting those advantages, he was afraid they should lose ground the next sessions, rather than gain any thing.

Mr. Solicitor, Sir Francis Winnington, then summed up the evidence for the king. As to Mr. Coleman's defence, in which he said his design was to make his Majesty great, he answered, that the contrary was manifest; for the Jesuits, who loved tyranny, always adhered to those persons who were greatest in power: that when the House of Austria were in their greatness, and like to arrive at universal monarchy, then the Jesuits adhered to that House; but since the French king had grown powerful, they had declined the interest of the

Austrian family, and promoted the counsels of France, believing that king would become the universal monarch.

The Lord Chief Justice in his charge to the jury told them, that it was plain from Mr. Coleman's letters, that he intended to bring in the Roman Catholic, and to subvert the Protestant religion; and that which was by consequence intended was the killing the king, as the most likely means to introduce that: that another way his letters plainly convicted him of bringing in Popery was by a foreign power: and as for the way Mr. Coleman pretended he designed to introduce his religion, (viz.) by procuring liberty of conscience, that he knew was very unlikely to produce that effect; for though some had so little wit as to turn fanaticks, he saw very few, that when left to themselves would turn Papists: that for Mr. Coleman, who was bred a Protestant, (his father being a minister in Suffolk) to turn Papist, being a man of those parts, as he appeared to be, he looked upon that circumstance as an argument against him, and that he was moved by some bye-ends and secular motives—he believed his pension was his conscience, and his secretary's place his bait—then he proceeded to inveigh against the bloody and inhuman principles of those of the prisoner's religion: and as to the evidence that had been given *viva voce*, as to his design of killing the king, he left it entirely to the jury, without making any observations upon it.

The jury, after a short absence, brought the prisoner in Guilty.

The day following, being the 28th of November, Mr. Coleman was brought again to the Bar to receive his sentence.

Before judgment was pronounced, the Lord Chief Justice made a speech, in which he told Mr. Coleman he would not have him go out of the world under a mistake, and think himself innocent; for it was apparent from his own letters (waiving the testimony of the two witnesses) that he was guilty of contriving and conspiring the destruction of the Protestant religion, and to bring in Popery, and that by the aid and assistance of a foreign power: that he who subverts the Protestant religion here, by consequence brings in a foreign authority, and does an act in derogation of the crown, and in

diminution of the king's supremacy, and endeavours to bring us under a foreign dominion (the Pope.)—And though he might intend to bring in Popery by procuring a dissolution of Parliament, and obtaining liberty of conscience, and such innocent ways, it was greatly to be feared other methods would have been taken, if those failed; (at least by his confederates, if not by him) and he that enters upon an unlawful act is guilty of all the consequences that attend it, though he might not design them. He then exhorted the prisoner to be penitent, and disclose the whole plot, and not be deluded with fond hopes of having his sentence respited: that he should not trust to it, for they might flatter him to stop his mouth until they had stopped his breath, and he doubted he would find that to be the event. He again pressed him not to be deceived with the expectation of a pardon; for the nation was at that time in such disorder, and the people so alarmed with secret murders or daily outrages, that though the king, who was merciful, should be inclined that way, he verily believed both Houses of Parliament would interpose between that and him: that as nothing could save him, he must assuredly die, and that suddenly.

The Chief Justice then pronounced sentence on Mr. Coleman as a traitor.

Mr. Coleman thanked his lordship for his charitable advice: he acknowledged, that confession was extremely necessary to a dying man; but the confession he supposed his lordship meant, was of the crimes he was condemned for, (*viz.*) a malicious contriving, &c. but he renounced all the mercy that God could shew him, if he had not discovered already to the House of Commons all that he knew in this business: that he never made or received, or ever heard of any proposition towards invading the king's life, his crown, or dignity, or to make any invasion or disturbance to introduce any new government, or to bring in Popery by violence or force: that possibly he might be mistaken in his opinion, that Popery would come in with liberty of conscience, but that he thought Christians ought to wish all people of the religion they were themselves, if they were in earnest: that he should not now dispute the evil principles with which his lordship charged those of the

Church of Rome, but if he thought them guilty of such things, he should not be of them. He confessed he had had all the fair play imaginable; but as to any act of his, so far as acts require intention to make them acts, as all human acts do, he was innocent of any of the crimes he stood charged with. As for intending and endeavouring to bring in the religion of the Church of Rome by the aid and assistance of the King of France, he never intended or meant by that aid and assistance any force in the world, but such aids and assistances as might procure them liberty of conscience.

WILLIAM IRELAND, THOMAS PICKERING,
JOHN GROVE, THOMAS WHITE,
ALIAS WHITEBREAD, AND JOHN FENWICK,
FOR HIGH TREASON, DECEMBER, 17, 1678.

THE indictment, upon which the prisoners were charged, set forth,

That the prisoners, not having the fear of God in their hearts, or weighing the duty of their allegiance, &c. but intending to disturb the peace of the kingdom, and subvert the religion established, &c. did on the 24th day of April, in the thirtieth year of the king, at the parish of St. Giles in the Fields, in the county of Middlesex, traitorously compass and imagine to depose the said king, and put him to death, and raise a rebellion, &c. And to bring their said treasonable designs to effect, they the said prisoners, together with other false traitors unknown, did on the said 24th day of April, in the parish and county aforesaid, traitorously assemble themselves together, and then and there did consult and agree to put the said king to death, and alter the religion established, and to bring in the Romish superstition: and to effect the same, they did afterwards, viz. at the day and place aforesaid, traitorously consult and agree, that they the said Thomas Pickering and John Grove should kill and murder the said king: and that they the said White, Ireland, Fenwick, and other false traitors unknown, should perform a certain number of masses for the soul of the said Pickering, and should pay to the said Grove a certain sum of money: and that thereupon the said Pickering and Grove did undertake and promise to the said other traitors, that they would murder the king: and that all the aforesaid prisoners did, at the day and place aforesaid, plight their faith to each other, and promise upon the sacrament to conceal, and not to divulge their said treasons: and that the said Pickering

and Grove, at the day and place aforesaid, did traitorously procure arms, viz. muskets, pistols, swords, daggers, &c. in order to kill the said king: and did at the day and place aforesaid, and at divers other times and places lie in wait, and endeavour to kill their said Sovereign Lord the King: and that the said White, Ireland, and Fenwick did at the day and place aforesaid persuade and excite four other persons unknown to kill and murder their said Sovereign Lord the King, against the duty of their Allegiance, the king's peace, &c.

To this indictment the prisoners severally pleaded not guilty.

The jurors being sworn, Sir Creswel Levinz opened the indictment. Mr. Serjeant Baldwyn and Mr. Finch opened the charge more fully, and shewed the nature and course of the evidence: the witnesses were then called, and first

Titus Oates was sworn.

Mr. Serj. Baldwyn.—Pray Mr. Oates declare to the court what design there was of killing his Majesty, and by whom.

Mr. Oates.—In December last the prisoner Whitebread was made provincial of the order of the Jesuits, by the general of the Jesuits at Rome, after which Whitebread ordered Conyers, a Jesuit, to preach at St. Omers on St. Thomas a Canterbury's day; which he did, and inveighed against the oaths of supremacy and allegiance, as antichristian and devilish. In January Whitebread wrote letters directed to Father Ashby, at St. Omers, intimating a design of assassinating the king: and afterwards Whitebread, being at London, summoned several Jesuits to appear at a consult to be held in London, the 24th of April, O. S. Upon which summons nine went over from St. Omers, the Rector of Liege, Sir Thomas Preston, Marsh, the Rector of Ghent, Williams, Rector of Wotton, one Sir John Warner and two or three more; and we were ordered to keep ourselves close, lest the design should be suspected: accordingly we did appear at the consultation, the 24th of April, O. S. The consultation was begun at the White-horse Tavern in the Strand, and there they met in several rooms, and when a new set came in, those that were there before retired: and John Cary was appointed to go their procurator to Rome: from the White-horse they adjourned into several colloquies, or little meetings: one of them at Mr. Sanders's house, butting upon Wildhouse; a second at Mr. Ireland's lodging in Russel-street; a third was at Mr. Harcourt's lodging; and a fourth was at Mr. Grove's house. After they had debated the state of religion and the king's death, Mico, secretary to the society, and the provincial's companion, by their order drew up this resolve, viz. That Pickering and Grove should go on in their attempt to kill the king, and that Grove should have 1500*l.* and Pickering 30,000 masses as a reward.

Jury.—We desire he may be asked, where he saw them sign it?

Oates.—Whitebread signed it at that part of the consultation, that was held at his chamber; and so Ireland and Fenwick at their

respective chambers. I carried it from one company to another, and saw them sign it: and soon after the consultation I returned to St. Omers.

In May came over Whitebread, Cary and Mico to St. Omers, and having given an account how the plot proceeded in England, Whitebread ordered me to come to England, and kill Dr. Tongue a divine, who had translated a book out of French, called Jesuits Morals. The 13th of June, O. S. I left St. Omers, and the 15th arrived at Dover, where I met Fenwick, who was come thither to send some lads to St. Omers. We came for London together, and by the way the coach was searched, and the searchers took a box of Fenwick's full of beads, crucifixes, images, and such trumpery: and Fenwick said, if they had searched his pockets, they had found such letters as might have cost him his life. After we had been in London some days, one Ashby came from St. Omers, and brought instructions from Whitebread, 1st. That 10,000l. should be proposed to Sir George Wakeman to poison the king. 2d. That the Bishop of Hereford should be murdered; as also Dr. Stillingfleet: but that Pickering and Grove should go on with their design of killing the king still.

Sir George Wakeman refused the 10,000l. as being too little; and Whitebread wrote word, they should offer 5000l. more, which was accepted by Sir George; at which Whitebread expressed abundance of joy in a letter I saw of his: and 5000l. of the money was paid to Sir George Wakeman by Mr. Coleman, or his order.

In August following, there was a consultation between the Jesuits and Benedictines at Wildhouse ——— where was the prisoner Fenwick, and one Harcourt: and Fogarthy recommended four ruffians to them to kill the king, and they accepted them, and eighty pounds were sent after these assassins the next day, and Coleman gave the messenger, who carried it, a guinea for expedition.

In the same month Whitebread sent other instructions to the said William Harcourt, Rector of London, to foment a rebellion among the discontented Scots; and the 6th of August, Harcourt sent down Moor and Sanders into Scotland, and sent down some to preach among the Presbyterians, and to insinuate the danger they were in from the episcopal tyranny.

Ld. Ch. Justice.—Are you sure Pickering and Grove accepted of the terms proposed to them to kill the king?

Oates.—Yes, my lord; it was at Mr. Whitebread's lodgings then: as for Grove he did indeed attend at that time on Fenwick at his chamber, but after the consultation was over, he came to Mr. Whitebread's lodgings, and took the sacrament, and the oaths of secrecy upon it, and did accept it, and agree to it.

Mr. Finch.—What do you know of any attempt to kill the king in St. James's Park?

Oates.—I saw Pickering and Grove walking in the Park several times with their screwed pistols, and they had silver bullets, and Grove would have had the bullets champed, lest they should not prove mortal; it was in the months of May and June that I saw them.

Whitebread.—Then was Oates actually at St. Omers.

Sir Chr. Levinz.—Do you know any thing of Pickering's doing penance?

Oates.—In March last Pickering followed the king, but durst not fire, though he had a fair opportunity, the flint of his pistol being loose; and he underwent a penance for his negligence, and was chidden, and had twenty or thirty strokes by way of discipline: this I discovered by some letters I saw from Mr. Whitebread.

Mr. Serj. Baldwyn.—Do you know how the ruffians proceeded at Windsor?

Oates.—No; for in the beginning of September one Beddingfield wrote Whitebread word, that I had discovered the thing to the king, (and indeed another gentleman had been with the king from me). And when I went to the provincial's chamber, he upbraided me with discovering it; and though I asserted my innocency, he beat and reviled me for it, and commanded me to go beyond sea again, and I was afraid of something worse, for they assaulted me in my lodging.

Fenwick.—Are you sure I was by at Harcourt's chamber, when you say the money was sent to the ruffians at Windsor?

Oates.—Yes you were.

Ld. Ch. Justice.—How many signed the resolve for Grove and Pickering to kill the king?

Oates.—There were Whitebread, Fenwick, and Ireland, and at least forty signed it.

Ld. Ch. Justice.—Were Ireland and Fenwick present, when Mico drew it up?

Oates.—No: after it was drawn up and signed by Mr. Whitebread and those of the consultation at his chamber, I carried it to them the same day to their several consultations: and it was signed also by Pickering and Grove afterwards at the provincial's chamber, just before mass was said, and the oath of secrecy taken: (Whitebread gave the oath to me, and to all the rest.)

Whitebread.—I am in a very weak and doubtful condition as to my health, and therefore should be loth to say any thing that is not true: but I may boldly say in the sight of Almighty God, that there have not been three true words spoken by this witness.

Ld. Ch. Justice.—You have a religion that can give dispensations for oaths, sacraments, protestations and falsehoods.

Oates.—My lords, this Whitebread has an authority from Rome to grant military commissions, and here are the seals of the office in court, with which he hath sealed some hundreds of commissions; they call them patents.

Ld. Ch. Justice.—Are not you provincial of the Jesuits, Mr. Whitebread?

Whitebread.—I cannot deny that, my lord.

Ld. Ch. Justice.—Then Oates has spoken more than three true words. Who were the commissions sealed by?

Oates.—The commissions for the general officers were signed by Joannes Paulus de Oliva, general of the order; but those to inferior officers by the provincial.

Ld. Ch. Justice.—Can you name any one person he hath sealed a commission to?

Oates.—He sealed one to Sir John Gage of Sussex, which I delivered myself.

Ld. Ch. Justice.—Did you see Ashby's instructions?

Oates.—I read them, and did then and always give it as my judgment, that it was safer to poison the king, than to pistol or stab him. — And I have this farther to say against Grove, that he went about to gather Peter Pence, as he told me at my lodging in Cockpit-alley.

Grove.—Did I ever see you at your lodging?

Ld. Ch. Justice.—Why do not you know Mr. Oates?

Oates.—My lord, I will convince him, that he is very well acquainted with me. In December last I met him at the provincial's lodgings, of whom I went to take my leave before I went to St. Omers, and then Grove lent me eight shillings.

Ld. Ch. Justice.—How came you to lend money to a man you were not acquainted with?

Grove.—I knew I should go along with him to the coach, and then I should have it again.

Ld. Ch. Justice.—And did he pay it you?

Grove.—No : Mr. Fenwick did, I think.

Ld. Ch. Justice.—Then Mr. Oates was known to you all : he was no stranger to you, as you would have us believe.

Oates.—My lord, we were in company too, when one brought us a note of what was done in the House of Commons turned into burlesque ; (for whatever was done in the parliament, the council, or Westminster-hall, they used to burlesque, and then turn it into French, and send it to the French king :) and we were together at the Red-posts in Wild-street, when he told me, that he and three Irishmen set fire to Southwark, and that he had four hundred pounds for that service, and the Irishmen two hundred each.

Whitebread.—Oates has sworn he was present at several consultations in April and May, but from November till June he was constantly at St. Omers.

Fenwick.—We can bring an authentic writing from St. Omers under the seal of the college, and testified by all in the college, that he was there all that time.

Ld. Ch. Justice.—I do not know what you can get from St. Omers ; but that would be no evidence in any case.

Fenwick.—Does your lordship think there is no justice out of England ? It shall be signed by the magistrates of the town.

Ld. Ch. Justice.—The law of England sends no fact out of the country to be tried.

Whitebread.—May he be put to produce any two witnesses that saw him at London at that time he mentions?

Oates.—To show you that I was here, Farther Warner, Sir Thomas Preston, Father Williams, Sir John Warner, and one Nevil, came over with me ; as did Hilsley, who was whipped and turned out of the house : and Hilsley lost his money by the way, and Father Williams reimbursed him.

Whitebread.—My lord, he might know that two such came to town, but he was not with them.

Ld. Ch. Justice.—Have you any other circumstance, Mr. Oates, to prove that you was here?

Oates.—My lord, I lay at Grove's house; and Strange the late provincial lay there then, and a flaxen-haired gentleman.

Grove.—Strange has lain at my house, but I can make it appear by all the house, that he did not lie there either in April, or May.

Ld. Ch. Justice.—If you can prove, that Mr. Oates was not in England, in April, or May, you have made a great defence for yourselves; in the mean time if you have no more questions to ask Mr. Oates, let him sit down, and have some refreshment.

Oates.—My lord, I omitted the design against the Duke of Ormond. In January last there came letters to London, from Archbishop Talbot, which being perused by Fenwick, Ireland, and Whitebread, were communicated to the fathers at St. Omers: these letters gave an account of the fair prospect the Catholics had of effecting their designs in Ireland: this letter was enclosed in another, signed by Whitebread, Ireland, and Fenwick; (which I also saw;) wherein they give God thanks, that he was pleased to prosper their designs in Ireland; and they add, that they would not leave a stone unturned, to root out that abominable heresy out of that kingdom. About the 21st of August, there was a consultation, where Fenwick was present, and did consent to the contrivance of the Duke of Ormond's death and the rebellion in Ireland; and he approved of the four Jesuits, who were sent to kill him; and he also consented, that if the four good fathers did not effect the business, Fogarthy should be sent to the Archbishop of Dublin: and, my lord, Whitebread did consent to this conspiracy, as appears by their books of entry.

Ld. Ch. Justice.—You would do well to show us your book, Mr. Whitebread.

Whitebread.—We never kept any.

Oates.—My lord, the consultation did; and this book was kept by the superior, and never opened but at the consultation, and therein all the passages were registered.

Bedlow.—My lord, all the consultations did keep books, and Mr. Langhorn was the person that registered all into one.

Ld. Ch. Justice.—If a hundred witnesses swear it, they will deny it.

James Bedlow was sworn.

He deposed, that several priests and Jesuits used to resort to his brother, when he came from beyond sea: and that the deponent had received many score pounds of them for his brother, fifty or threescore pounds at a time, but the deponent said he knew nothing of the plot himself; though indeed he had heard his brother mention the prisoners names, and had heard other priests enquire after them of him.

Ld. Ch. Justice.—The use the king's council make of this evidence is to show, that his brother was conversant about their affairs.

A letter was then produced, found in Harcourt's

chamber, written from Peters, one of the conspirators, to one Mr. Tonstall; which the Lord Chief Justice told the jury could not be evidence against any of the prisoners, but was brought to fortify Mr. Oates's evidence, and show, that there was a plot in general.

Sir Thomas Doleman deposed, that he found this letter in Harcourt's study, who was one of the conspirators: and Oates deposed, that he knew it to be Mr. Peters's hand.

This letter was dated the 23d of February, 1677, and superscribed, to his honoured friend Mr. William Tonstall at Burton.

Peters tells Mr. Tonstall in this letter, "that the provincial had fixed upon the 21st of April, O. S. for the meeting of their congregation in London, that they might be ready to give a beginning to the same the 24th; and warns Mr. Tonstall, as having *jus suffragii* to be there; but adds, that every one of them is directed not to hasten to London long before the time appointed, nor appear much about the town, till the meeting was over, lest occasion should be given to suspect the design. Finally, secrecy as to the time and place was much recommended to all, who received a summons, as it would appear of its own nature necessary."

Signed EDWARD PETRE.

Serj. Baldwyn.—Pray, Sir Thomas Doleman, did Mr. Oates testify before the council, that the consultation was to be the 24th of April, before this letter was found?

Sir Tho. Doleman.—Yes, four or five days before we found this letter.

Serj. Baldwyn.—Where are the seals that were made use of in sealing the commissions?

Oates.—They are in court, and were taken out of the provincial's chamber.

Whitebread.—I confess they had the seals out of my chamber. Then the seals were shewn in court.

Mr. Finch.—These were used to seal commissions for raising of an army. We have done with our evidence for the king, till we hear what the prisoners will say.

Here the Lord Chief Justice observed, that though there might be evidence sufficient to satisfy a private conscience, as to Whitebread and Fenwick; yet there being but one witness against them, and the law requiring two, they could not be convicted now, and therefore he discharged the jury of them, and remanded them into custody till further evidence should appear against them; but told the other three, they should have liberty to make their full defence.

Ireland said, that on the 3d of August last he went into Staffordshire with Lord Aston and his lady, and

his son, and Sir John Southcot and his lady, who could prove he was all the rest of that month in Staffordshire; but that it was a hundred to one if they were in court; for he had not been permitted to send a scrap of paper.

Ld. Ch. Justice.—As soon as your sister came to me, I ordered she should have access to you, and that you should have pen, ink and paper, in order to your defence; therefore call your witnesses, and prove what you say, as you said you would.

Ireland.—I do as much as I can; I name them that can testify.

Ld. Ch. Justice.—If naming them should serve, you must have a law made on purpose for you.

Ireland.—Then there is no help for innocence.

Recorder.—To save him this labour, the king's evidence will prove he was then in town.

Sarah Pain, Grove's maid, was sworn.

She deposed, that she saw Ireland at the door of his lodging (which was at a scrivener's, in Fetter-lane) about the time the king went to Windsor.

Ld. Ch. Justice.—Sir Thomas Doleman, when did the king go to Windsor?

Sir Tho. Doleman.—About the 13th of August.

Ld. Ch. Justice.—How long have you known him?

Pain.—My lord, he often came to our house, when I lived at Mr. Grove's: he was the man that broke open the packets of letters, which my master carried about afterwards; and he sealed all the packets which went beyond sea.

Ireland.—Then I must call the people where I lodged to prove I was out of town all August.

Mrs. Anne Ireland sworn.

Ld. Ch. Justice.—What can you say concerning your brother's being out of town in August?

Anne Ireland.—He set out for Staffordshire on Saturday the 3d of August.

Ld. Ch. Justice.—How do you remember that it was just the 3d of August?

Anne Ireland.—Because the Wednesday before my brother and mother, and I were invited out to dinner, and staid out all night, and on Friday my brother came home; and on the Saturday he set out for Staffordshire.

Ld. Ch. Justice.—Do you know Sarah Pain, Mr. Ireland?

Ireland.—I do not know her.

S. Pain.—He knows me very well; I have carried several letters to him, foreign letters and others.

Ld. Ch. Justice.—They will deny any thing in the world.

Ireland.—I profess I do not know her; though she having been Mr. Grove's servant may have brought me letters.

Mrs. Eleanor Ireland, the prisoner's mother, was called.

She deposed, that her son went out of town the 3d August, and did not return till a fortnight before Michaelmas; and that she and her daughter lodged at the same house he used to lodge all the time he was gone.

Oates.—My Lord, Mr. Ireland wrote a letter, and dated it as from St. Omers, when I took my leave of him at his own chamber, between the 12th and 24th of August in London; and afterwards he came to Fenwick's chamber, when I was there, which was at least a fortnight or ten days in August, I am sure: and whereas he says, he was the beginning of September in Staffordshire, he was in town the first of September, or second; for then I had twenty shillings of him.

Harrison appeared.

He deposed, that he was servant to Sir John Southcot; and that the first time he saw Mr. Ireland was on the 5th of August, when they met him at St. Alban's: that Sir John his master went to meet my Lord Aston and his Lady there; and that they lay at the Bull at St. Alban's that night, and the next day set forwards together to my Lord Aston's house at Tixwell in Staffordshire: that he was in company of Mr. Ireland from the 5th of August to the 16th, when he parted with him at Westchester.

Ld. Ch. Justice.—You say you went out of town on Saturday; did you stay at St. Alban's until Monday?

Ireland.—No: I went to my Lord Aston's at Standon in Hertfordshire on Saturday, where I staid until Monday, and then we went to St. Alban's to meet Sir John Southcot and his Lady.

Ld. Ch. Justice.—You said you were all August in Staffordshire; and your own witness says you were at Westchester.

Ireland.—In Staffordshire, or thereabouts.

Ld. Ch. Justice.—Why was not Sir John Southcot himself brought to testify this?

A. Ireland.—I did it myself; I did not understand what I should have done.

Ireland.—It is mere chance she sent for those she did; for they would not let me have one bit of paper.

Ld. Ch. Justice.—Fellow, what town was that in Staffordshire? Tell me quickly.

Harrison.—It was Tixwell by my Lord Aston's; and after we had staid there three or four days, we went to Nantwich, and so to Westchester.

Mr. Charles Gifford called.

He deposed, that he saw Mr. Ireland at Wolverhampton a day or two after Bartholomew Day, and that he continued thereabouts until the 9th of September, and that he could bring twenty more who saw him there.

Ireland.—My Lord, there is one William Bowdrel will testify the same, if I might send for him.

Ld. Ch. Justice.—Why have not you him here?

Ireland.—My sister has done what she could to bring them.

Ld. Ch. Justice.—Mr. Grove, what say you for yourself?

Grove.—My Lord, Mr. Oates never lay at my house, nor did I ever receive the sacrament at Wildhouse as he deposes; and if I had my witnesses here, I could prove it.

Ld. Ch. Justice.—What say you Mr. Pickering? You rely upon your masses.

Pickering.—I never saw Oates before; and for Bedlow I never was in his company in my life.

Ld. Ch. Justice.—Well, have you any witnesses?

Pickering.—I have not had time to send for any.

Ld. Ch. Justice.—You might have moved the court, when you came at first, and they would have given you an order to send for any.

Ireland.—We desire but a little time to make out our proof.

Ld. Ch. Justice.—The jury must not eat or drink, until they give a verdict.

Grove.—Please to ask Mrs. York my sister, if ever she saw Mr. Oates at my house.

York.—No, my Lord, I did not.

Mr. Just. Atkins.—Nor I neither; might he not be there for all that?

Oates.—My Lord, I was in a disguise, and went by another name.

Ireland.—Though we have no more witnesses here, yet we have witnesses to prove we have more witnesses.

Ld. Ch. Justice.—And those witnesses can prove you have more witnesses, and so *in infinitum*.

Ireland.—We can go no further than we can go, and can give no answers to what we did not know would be proved against us: my lord, Sir Denny Ashburnham promised to be here to testify concerning Mr. Oates.

Sir Denny Ashburnham appeared.

He deposed, that he received a letter that morning with a copy of an indictment against Mr. Oates for perjury, which he had shewn Mr. Attorney: that he knew Mr. Oates in his youth, and then he was not a person of that credit to be depended upon: and had the discovery of the plot depended on his single testimony, he should have doubted of it, but Mr. Oates's testimony was so corroborated, he said, by concurring evidence, he was now convinced of the truth of it.

Ld. Ch. Justice.—What was in the indictment?

Sir D. Ashburnham.—That he did swear the peace against a man, and also deposed, that there were some witnesses, that would prove a certain fact; but when they came they would not testify it, and so he was forsworn: there was no proceeding upon the indictment.

Ld. Ch. Justice.—Have you any more witnesses?

Ireland.—Here are my sister and my mother can tell how our relations were plundered for siding with the king.

Ld. Ch. Justice.—No; it was for being papists, and you went to the king for shelter.

Ireland.—I had an uncle killed in the king's service; besides the

Pendrels and the Giffords, who are my near relations, were instrumental in saving the king at the fight at Worcester.

Pickering.—My father was killed in the king's party.

Ld. Ch. Justice.—Why do you fall off from your father's virtue?

Pickering.—I have not time to produce my witnesses.

Grove.—As I have a soul to save, I know nothing of the matter charged against me.

The Lord Chief Justice then summed up the evidence, and charged the jury, that though Oates and Bedlow were mistaken in the point of time, and Ireland was out of town in August, yet this did not entirely destroy their testimony; the substance of their evidence might be true, though they had sworn falsely in this circumstance; indeed, he said, it might invalidate the credibility of their testimony, if it appeared Ireland was really out of town in August; but he left it to them, whether they would believe the king's three witnesses, who had sworn he was in town, or the others, who swore he was not. He thought it impossible for any men to frame such a story as the king's witnesses had told; or for any one to disbelieve it when it was told; and that nothing was plainer, than that there was a conspiracy to bring in popery, and destroy the protestant religion. Nor was it, he said, at all difficult to believe, that these priests, who had debauched men's understandings, overturned all morals, and destroyed all divinity, were engaged in such a design; whose humility was such, that they trod upon the necks of emperors; their charity such as to kill princes, and their vow of poverty such as to covert kingdoms: that they had rendered all converse with them impracticable, for they knew no sin, but what might be indulged, no offence too great for a pardon; and the blackest often accounted meritorious; and said, if sacraments could not bind them, what obligations or covenants between man and man could.

After having inveighed very severely against the principles and practices of the papists, he concluded, that the matter was as plain and notorious as could be, that there was an intention of bringing in popery by a cruel and bloody way; and he thought Mr. Oates rather justified by the testimony offered against him, than discredited.

The jury having withdrawn for a short time, returned, and brought Ireland, Pickering and Grove in Guilty.

The court then adjourned until the afternoon, when the prisoners were brought into court again. It being demanded of the prisoners severally, what they had to say, why judgment should not be given against them to die according to law; and none of them offering anything material, the court ordered them to be tied up: after which Mr. Recorder made a speech to them, and among other expressions said, that the prisoners design was so horrid, that nothing but a conclave of devils in hell, or a college of such Jesuits as theirs upon earth, could have thought of it.

The Recorder having concluded his speech, pronounced the usual sentence in cases of high treason upon the prisoners Ireland, Pickering, and Grove.

JAMES MITCHEL

FOR ATTEMPTING TO MURDER THE ARCHBISHOP OF ST.
ANDREWS, AND WOUNDING THE BISHOP OF ORKNEY,
at Edinburgh, Jan. 7, 1678.

THE indictment set forth,

“That whereas by the Laws of this and all other well-governed kingdoms, murder and the lying in wait with a design to kill, are most detestable crimes, and severely punishable, especially when committed against persons in authority. And whereas it is enacted by the fourth Act of the 16th Parliament of Jac. 6. That whoever invades any of his Majesty’s Council, the Lords of Session, &c. shall be punished with death; and by the seventh Act of the first Parliament of his Majesty’s father, entituled, ‘Anent the Invading of Ministers,’ it is enacted the same shall be extended to all archbishops, bishops, and ministers whatsoever. And by the fourth Act of his Majesty’s second Parliament, That whoever shall assault the lives of ministers, shall incur the pain of death, and confiscation of moveables: and whereas the mutilation and dismembering of any subject is likewise punishable with death. Nevertheless, the prisoner having conceived deadly malice and hatred against the Right Reverend James, archbishop of St. Andrews, upon account of his being promoted to be archbishop, and of his Majesty’s Privy Council, &c. did contrive the murder and assassination of the said bishop; and in order thereto having provided himself with a pair of pistols, did on the 9th day of July, 1668, or one or other of the days of the said month, proceed to execute his purpose, when the said archbishop in the afternoon of the said day came down his stairs, and was going into his coach with the bishop of Orkney; and did feloniously as-

sault the said bishops, and discharge the said pistol loaded with powder and ball upon them being within the coach; and thereby did dangerously wound the said bishop of Orkney in the joining of the hand and arm, so that he was mutilate and dismembered, and never perfectly recovered his health, but languished thereof until he died; and that after the prisoner had committed the fact he escaped through the crowd, that was gathered on the noise of the pistol, with another bended pistol in his hand, determining to have killed any that should have attempted to apprehend him. That the crime was without parallel, being committed by one of the reformed religion, who pretended to serve as a chaplain in several families, and committed upon a father of the church, to the scandal of the reformed religion, whose preachers had always expressed the greatest detestation of such practices in those of the church of Rome. That the prisoner being fled, and having wandered about in Holland, England and Ireland, returned to Edinburgh, and had the impudence to keep open shop there, near the place where the archbishop lodged, which he continued to do for a considerable time, till at length he was discovered and apprehended, being taken with the same pistol loaded with powder and ball, with which he made the former attempt upon the archbishop; and with which he designed to have attempted the same again; or at least to have shot any person, who should offer to take him; from which premises it was evident he was guilty of murder and assassination by way of forethought, felony, &c. and therefore the aforesaid pains ought to be inflicted upon him, to the terror and example of others."

The prisoner denied the charge in the indictment, or any pretended confession of the fact alledged to be made by him.

And Mr. John Eleis, the prisoner's advocate, further urged in his defence, that the prisoner could not be charged with murder; for that a bare endeavour, where the thing was not effected, could not be punished as though it was actually committed; even in the most atrocious crimes, except treason and parricide. And that it were against all reason, seeing punishments ought to be proportionable to crimes, that a naked and simple design of murder should be punished as murder, that had taken effect. That as to the assassination, which the indictment charged him with, it was both a term and a crime unknown to their law; and the subjects of Scotland are to be governed by the laws of Scotland. And though the prisoner might be indicted for assassination by their law, yet it was not laid in the indictment, that he was hired to commit the fact, without which he was no assassin. And that as to the mutilation of the bishop of Orkney, the Act does not extend to mutilation, but

dismembering only, and that only where it is done of malice aforethought. Nor can the indictment be maintained, but where the party who receives the hurt, or his next relation, becomes the prosecutor; and besides that, dismembering is not so much as laid, or pretended, in the indictment. And although it were insinuated, that the bishop died of the wound, it being not laid, that the wound was of its own nature mortal, the indictment in this point was insufficient; and especially since it could be proved, that the bishop afterwards went about, and exercised his function, the prisoner ought to be acquitted.

To this the LORD ADVOCATE answered, That he still insisted on the fourth Act of the 16th Parliament of Jac. VI. which makes the bare invading and attempting the life of a Privy Counsellor to be capital; and here in this case the prisoner proceeded to action, and did all that lay in his power; and whereas it was insinuated, that it ought to be proved, that he did it for doing his Majesty's service, that was always to be presumed, where one attempts the life of a Privy Counsellor; for his intentions were no otherwise to be discovered, than by his actions, and the prisoner being unknown to him, could have no other quarrel against him, than for doing his duty; and the law will interpret it so, unless he could shew some other private end he had in committing it; and besides the presumptions of law, the prisoner had owned himself to be of a sect, who hates and execrates that hierarchy: and one of them (Nepthaly) had declared in print, it was lawful to kill one of that character; and the prisoner himself had asserted it was lawful to kill such, and had endeavoured to make proselytes to his opinion, and had acknowledged, that the reason he shot at the archbishop was, because he thought him a persecutor of those execrable rebels, who appeared on Pentland-hills; and that though the last Act was made after the fact, yet it was explanatory of a former, concerning the invading or attempting the life of one of that sacred function.

Whereas it was objected the confession should not be allowed as evidence, being taken before an incompetent judge, it was answered, that confessions are of all proofs the most infallible; for it could not be presumed the party would wrong himself. And though a man might think it hard, that what he had said inadvertently, or in

ordinary discourse, should be made evidence against him, yet what can he object, where he deliberately confesses, when he knows the design is to enquire into the crime, in order to bring him to trial? And further, that indeed this confession was judicially taken, being by authority of the Privy Council, the supreme Judicatory of the nation, who can take cognizance of criminal matters, and moderate and qualify the sentences of inferior courts; and the greatest part of the justices of the criminal court being there, it were absurd to think, that a confession made before them should not be evidence: and that the sense of the Act of Parliament mentioned was grossly mistaken; for confessions before the justices are allowed to be evidence against the criminal, though no jury be present.

January 9, 1678.—The Lords Commissioners of justice having considered the indictment, and the arguments thereupon, found that the article in the indictment, founded on the fourth Act of the 16th Parliament, Jac. 6. importing the prisoner's assaulting the archbishop, being a Privy-Counsellor, by firing a pistol at him, for doing his Majesty's service, was sufficiently supported; it being proved, that the prisoner said he made that assault upon the archbishop for his persecuting those who were in rebellion at Pentland.

That as to the article concerning the assaulting bishops and ministers, they found it only infers an arbitrary punishment.

As also that other article, concerning the mutilating the bishop of Orkney, only inferred an arbitrary punishment.

As to the prisoner's confession made before a committee of council appointed to receive it, and renewed in presence of his Majesty's high commissioner and Lords of the Privy-Council, they found it to be judicial, and not to be retracted.

And as to the same being made on a promise of life, or impunity, they found the same sufficient to secure the prisoner's life, provided it were proved; reserving to the court nevertheless a power of inflicting such arbitrary punishment, as they should think fit, if the same were proved; referring the proof of this and the other facts to the jury.

A jury consisting of fifteen was then sworn; and his Majesty's advocate produced the prisoner's own confession, viz.

“Edinburgh, 10, 1674. In presence of the Lord-Chancellor, Lord-Register, Lord-Advocate, and The-saurer-Depute, Mr. James Mitchel prisoner, being called, did freely confess, he was the person who shot the pistol at the archbishop of St. Andrews, when the bishop of Orkney was hurt thereby in the year 1668, and depones upon oath, that no living creature did persuade him to it, or was upon the knowledge of it.”

Mr. William Paterson being produced as a witness, deposed, That he met a man with a pistol in his hand in Black-friar Wynd immediately after the pistol was shot at the archbishop, but knows not the prisoner, or if he was the person that shot it.

Patrick Vanse, keeper of the Tolbooth, deposed, That a day or two before the prisoner was examined by the council, he confessed to the deponent, that he shot a pistol at the archbishop of St. Andrew, and escaped down Black-friar Wynd, and that he afterwards returned into the street, and pretended to search for the man who shot the pistol.

John, Bishop of Galloway, deposed, That hearing the prisoner had made a confession, he went to the prison to speak with him about it; and he acknowledged to the deponent, that he had confessed the attempt against the archbishop before the Chancellor and some others of the council, and that he had hopes of life, and desired the deponent to intercede for him. And the deponent asking him how he could do such a deed against an innocent man, he answered, he thought him an enemy to the godly, and that they could not be in security, so long as he was alive; but he said, if it were to do again, he would not do it.

Dr. Irvin the surgeon deposed, That he was the first surgeon who came to the bishop of Orkney, and saw the ball fall out of his sleeve, and the bones were fractured with it, but he was so well cured he was able to lift his hand towards his head; and the bishop said, he got the wound as he was laying his hand on the archbishop's coach; and that small scales of bones continued to come out of the orifice of the wound.

John Jossie and William Brothwick, surgeons, deposed to the same effect.

John, Earl of Rothes, Lord High-Chancellor, deposed, That he was present, and saw Mitchel sign the abovesaid confession, and heard him ratify the same afterwards at the council board; and further deposed, that he did not give the prisoner any assurance of life, nor did he desire any such assurance; and if there be any expressions in a paper, that seem to infer this much, his Lordship conceived they had been inserted upon some mistake.

Charles Maitland, Lord Treasurer depute, deposed to the same effect; and added, that the prisoner being asked upon what account he committed that fact, he seemed at first unwilling to answer; but

afterwards said, it was because the archbishop was an enemy to the godly people in the west; and that there was no assurance of life given the prisoner, when he was before the committee.

John, Duke of Lauderdale deposed, That he saw the prisoner acknowledge the abovesaid confession: and that he renewed the same before the council.

James, Archbishop of St. Andrews deposed, That that day the prisoner fired a pistol at his grace he had a view of him, passing from the coach and crossing the street, which made such an impression upon his grace, that upon the first sight of him, after he was taken, he knew it to be the person who made the shot; and further, that he saw the prisoner acknowledge his confession at the council-table; and that there was no assurance of life given him there; nor did his grace ever give him any, or warrant any body else to do it, only he promised at his first apprehending, that if he would freely confess the fault, and express his repentance without further troubling judicatories therein, he would use his best endeavour to favour him, or else leave him to justice.

Then *the prisoner* desired a pretended act of council, the copy whereof he produced, might be read; from whence he inferred there was an assurance of life given him. The Lord-Advocate opposed it, saying, no such act could be made use of, (if there was any) after the Lord-Chancellor, Lord Lauderdale, and the rest of the council, had deposed, there was no such assurance given.

Jan. 10, 1678. The court being set, the jury brought in their verdict; viz. As to the first part of the libel, founded on Act 4. 16th Parliament, Jac. 6. concerning the assaulting or attempting any of the lords of session, privy-council, &c. the Chancellor, [i. e. the foreman] and the whole assize [the jury] with one voice found it proved.

As to the invading of bishops and ministers, and wounding the bishop of Orkney, they likewise found it proved with one voice.

As to his confessions, they likewise found them proved with one voice.

Lastly, as to the prisoner's exculpation, (or defence, in relation to the assurance given him of life) the whole assize with one voice found it no ways proved.

After opening and reading this verdict, the court adjudged, "That the prisoner should be taken to the Grass-market of Edinburgh on Friday the 18th of January, and there be hanged on a gibbet, till he was dead, and his moveable goods and gear to be escheat to his Majesty's use."

JOHN, RICHARD, AND JOAN PERRY,

FOR ALLEGED MURDER, 1660.

ON the 16th of August, 1660, Mr. William Harrison, aged 70, steward to Lady Campden, of Campden, in Gloucestershire, walked from Campden to Charringworth, to receive her ladyship's rents. As he did not return at the usual time, his wife about nine o'clock in the evening sent her servant, John Perry, to meet him; but neither Harrison nor the servant returned that night. On the following morning Edward Harrison, son of the aforesaid William Harrison, went towards Charrington, and meeting the servant Perry on the road, he learned that his father was not to be found there. They next went together to Ebrington, a village between Charringworth and Campden, where they were told by one Daniel, that a Mr. Harrison called at his house the previous evening, but only staid there a few minutes. They then went to Paxford, about half a mile distant, where, hearing nothing of Mr. Harrison, they returned to Campden. On their road thither they accidentally heard that a hat, band, and comb had been recently picked up, by a poor woman, on the highway, between Ebrington and Campden. They therefore sought for the woman, in whose possession these articles were said to be, and having found her, and identified the hat, band, and comb, to be the property of Harrison, they were conducted to the precise spot, where they were picked up. Adjoining the road was a large furze field, which they searched, supposing that Mr. Harrison might have been murdered there, as the hat, band, and comb, were much hacked, and the latter stained with blood. Their search was, however, in vain; and the news soon reaching Campden, so alarmed the inhabitants, that men, women, and children, commenced a general search for Mr. Harrison, but with no success.

Mrs. Harrison's fear for her husband's safety now increased, and as her servant Perry, whom she had sent on the previous evening, had not duly returned, suspicion fell upon him as the murderer. On the next day Perry was apprehended, and examined before a justice of the

peace, concerning his master's absence, and his reason for staying from home all night, when he gave this account: that in consequence of his mistress sending him to meet his master between eight and nine o'clock in the evening, he went down Campden field towards Charringworth, where meeting one William Reed, of Campden, he apprized him of the object of his journey; and further told him, that as it was growing dark, he durst not venture on his journey on foot, but would return and saddle his young master's horse. He accordingly returned with Reed to Mr. Harrison's gate, where they parted. He (Perry) remained there till on one Pierce passing by, he joined him, walked a short distance into the fields, and returned with him also to Mr. Harrison's gate, where they also parted. That he, John Perry, then went into his master's hen-roost, where he lay about an hour, but slept not: that when the clock struck twelve, he rose, and went towards Charringworth, till a great mist rising, he lost his way, and so lay the rest of the night under a hedge: that at the break of day on Friday morning, he went to Charringworth, where he enquired for his master, of one Edward Plaisterer, who told him that he had paid him twenty-three pounds on the previous afternoon, but that he remained with him only for a short time. He then went to one William Curtis of the same town, who likewise told him that he had heard of Mr. Harrison having been there the day previous, but being from home he did not see him. He then returned home, it being about five o'clock in the morning; when on the road, he met his master's son, with whom he went to Ebrington and Packford, as before stated.

Reed, Pierce, Plaisterer, and Curtis, in their examination, corroborated the whole of Perry's statement.

On Perry being asked by the justice why he was afraid to go to Charringworth at nine o'clock, and so willing to go at twelve, he replied, that at nine o'clock it was dark, but at twelve the moon shone. And on being further asked why, on returning home twice, after his mistress had sent him to meet Mr. Harrison, and staying till twelve o'clock, he did not enquire at home whether his master had returned before he went a third time to seek him, he answered, that he knew his master was not come home, because he saw a light in his chamber win-

dow, which was very unusual during Mr. Harrison's absence from home. Notwithstanding this explanation, it was not thought prudent to discharge Perry till further enquiry was made after his master; and accordingly he remained in custody six days, during which time he was again examined at Campden, but nothing further was elicited.

Various reports now obtained circulation, one of which was, that Perry, on being again pressed to confess what he knew of the matter, said that a tinker had killed his master. He told others that a gentleman's servant of the neighbourhood had robbed and murdered him; and to others he said that he was murdered and hid in a certain bean rick, where search was made for the body, but in vain. At length he promised to disclose the whole affair if he were examined by the justice before whom he had deposed his former statement. On Friday the 24th of August, he was again examined, when in reply to the question, whether he would confess what had become of his master, he said, that he was murdered, but not by him. On the justice telling him that if he knew him to be murdered, it was most probable that he knew the murderer, he confessed that he did; and further, that his mother and brother had murdered Mr. Harrison. The justice warned him of the serious nature of the charge, but he persisted in his assertion, which he justified by the following circumstances.

The prisoner now deposed, that his mother and brother had depended on him ever since he entered into his master's service, telling him that it was in his power to relieve them, by apprizing them of the day on which Mr. Harrison went to collect his rents, when they proposed to way-lay him and rob him: that accordingly he acquainted his brother of the day, and walked with him a short distance on his leaving home to search for Mr. Harrison, in the evening: that they then parted, but meeting again near Campden church, he proposed that his brother should pursue his master through some adjoining gardens, while he walked in the fields: that he soon afterwards found his master on the ground in the middle of the garden, his brother leaning over the body, and his mother standing beside him: that on being asked whether his master was dead, he answered No; and that after he came up to them, Mr. Harrison cried, "Ah! rogues! will you kill me?" He now told his brother he hoped he would kill his master, when he replied, Peace! peace! you're a fool, and then strangled him: which being done, he took a bag of money out of Mr. Harrison's pocket, and threw it into his mother's lap. Then he and his brother agreed to throw the body into a great

sink by Wallington's Mill, behind the garden; but his mother and brother requesting him to watch at a distance, and listen if all were safe, they undertook to dispose of the body accordingly.

On being asked whether it was thrown there, he replied, that he knew not; but that his mother and brother having promised to dispose of it, he left them, and went into the village of Campden. Here he met John Pierce, with whom he went into the fields, and returned to his master's gate; after which he went into the hen-roost, as before stated. Having brought with him his master's hat, band, and comb, after cutting them in pieces, he threw them into the high road, that it might be believed that his master was murdered there.

Upon this confession and accusation, warrants were issued against Joan and Richard Perry, the mother and brother of the aforesaid John Perry; but all attempts to find the body proved ineffectual. On Saturday, August 25, the three prisoners were examined, when Joan and Richard on being confronted with John, denied the charge in the most positive terms; as also an accusation made by John, of their having broken open Mr. Harrison's house, and robbed him of 140*l.* in the previous year. At the next assizes two indictments were accordingly found against the three. As the body had not been found, the judge refused to try them for the murder. They were, however, induced to plead guilty to the indictment for the burglary. John, still persisted in the story that his mother and brother had murdered Harrison, and further that they had attempted to poison him while in prison.

At the following spring assizes they were again indicted for the murder, and severally pleaded Not Guilty. When John's confession being produced in evidence, he said that he was mad at the time when such confession was made. They were, however, found guilty, and were executed shortly afterwards on a hill near Campden, John Perry being hung in chains.

About two years after the execution of these unfortunate persons, Mr. Harrison returned to Campden, in good health. As the case excited considerable interest, Mr. Harrison explained the whole of the circumstances which had thus detained him, in the following letter to Sir Thomas Overbury, a magistrate of the county of Gloucester.

FOR SIR THOMAS OVERBURY, KT.

Honoured Sir,

In obedience to your commands, I give you this true account of my being carried away beyond the seas, my continuance there, and return home.

One Thursday, in the afternoon, in the time of harvest, I went to Charringworth, to demand rents due to Lady Campden, at which time the tenants were busy in the field, and late before they came home, which occasioned my stay there, till the close of the evening. I expected a considerable sum, but received only three and twenty pounds. In my return home, in the narrow passage amongst Ebrinton Furzes, there met me one horseman, and said, 'Art thou there?' and I fearing he would have rode over me, struck his horse on the nose: whereupon he struck at me with his sword several blows, and ran it into my side: while I, with my little cane, made my defence as well as I could; at last another came behind me, ran me into the thigh, laid hold on the collar of my doublet, and drew me to a hedge near to the place, when another came up; they did not take my money, but mounted me behind one of them, drew my arms about his middle, and fastened my wrists together with something that had a spring lock to it, as I conceived: they then threw a great cloak over me, and carried me away. In the night they alighted at a hay-rick, which stood near a stone-pit, by a wall side, where they took away my money: about two hours before day-break, as I heard one of them tell the other, he thought it to be then, they tumbled me into a stone pit: they staid, as I thought, about an hour at the hay-rick; when they took horse again, one of them bid me come out of the pit; I answered, they had my money already, and asked what they would do with me? Whereupon he struck me again, drew me out, and put a great quantity of money into my pockets, and mounted me again after the same manner; and on the Friday, about sunset, they brought me to a lone house, upon a heath, by a thicket of bushes, where they took me down almost dead. When the woman of the house saw that I could neither stand nor speak, she asked them, whether they had brought a dead man? they answered, No; but a friend that was hurt, and they were carrying him to a surgeon: she answered, if they did not make haste, their friend would be dead before they could reach one. There they laid me on cushions, and suffered none to come into the room but a little girl: we staid there all night, they giving me some broth. In the morning, very early, they mounted me, as before, and on Saturday night they brought me to a place where were two or three houses, in one of which I lay all night on cushions by their bed-side. On Saturday morning they carried me from thence, and about three or four o'clock they brought me to a place by the sea-side, called Deal, where they laid me down on the ground: and one of them staying by me, the other two walked a little off to meet a man, with whom they tackled, and in their discourse I heard them mention seven pounds; after which, they went away together, and after half

an hour returned. The man, whose name, as I afterwards heard, was Wrenshaw, said, he feared I should die before he could get me on board. They then put me into a boat, and carried me on ship-board where my wounds were dressed. I remained in the ship, as near as I can reckon, about six weeks; in which time I was indifferently recovered of my wounds and weakness. Then came the master of the ship, and told me, and the rest who were in the same condition, that he discovered three Turkish ships; we all offered to fight in defence of the ship, and ourselves, but he commanded us to keep close, and said he would deal with them well enough. A little while after we were called up, and when we came on the deck we saw two Turkish ships close by us; into one of them we were put, and placed in a dark hole, where how long we continued before we were landed, I know not; when we were landed they led us two day's journey, and put us into prison, where we remained four days and a half. Eight men next came to view us, who seemed to be officers; they called us, and examined us of our trades, which every one answered; one said that he was a surgeon, another that he was a weaver; and I said I had some skill in physic. We three were set by, and taken by three of those eight men that came to view us. It was my chance to be chosen by a grave physician of eighty-seven years of age, who lived near to Smyrna, had formerly been in England, and knew Crowland in Lincolnshire, which he preferred before all other places in England. I was there about a year and three quarters, and then my master fell sick on a Thursday, and sent for me; and calling me as he used, by the name of Bell, told me he should die, and bid me shift for myself. He died on Saturday following, and I presently hastened to a port, almost a day's journey distant, when I addressed myself to two men, who came out of a ship belonging to Hamburgh, which, as they said, was bound for Portugal within two or three days.

I enquired of them for an English ship, they answered, there was none; I entreated them to take me into their ship; but they durst not, for fear of being discovered by the searchers, which might occasion the forfeiture, not only of their goods, but also of their lives. At length they took me on board, and placed me below in the vessel, and hid me with hoards and other things, so that I lay undiscovered, notwithstanding the strict search that was made in the vessel. On arriving at Lisbon in Portugal, where, as soon as the master had left the ship, and was gone into the city, they set me on shore moneyless, to shift for myself. I now met four gentlemen discoursing together; after a while, one of them came to me, and spoke to me in a foreign language: I told him I was an Englishman; he then spoke to me in English, and told me that he was an Englishman himself, and born near Wisbeach, in Lincolnshire. I then related to him how I had been carried away, and my present condition; upon which he took me along with him, and by his interest with the master of a ship, bound for England, procured my passage; and commended me to the master of the ship, who landed me safe at Dover, from whence I proceeded to London, where being furnished with necessities, I came into the country. Having arrived at Crowland, I was told of the unhappy fate of my servant Perry, and his mother and

brother: what caused John so falsely to accuse them and himself, I know not. He has not only brought his blood upon his own head, but that also of his innocent mother and brother. For I never saw either of them that evening; nor do I know who they were that carried me away after that rude and barbarous manner.

Thus, honoured Sir, I have given you a true account of my great sufferings, and happy deliverance.

Your Worship's, in all dutiful respects,

WILLIAM HARRISON.

STEPHEN COLLEDGE,

(COMMONLY CALLED THE PROTESTANT JOINER,)

FOR HIGH TREASON, AT OXFORD, AUGUST 17, 1681.

[Commissioners upon the Bench, the Lord Norreys, Lord Chief Justice North, Mr. Justice Jones, Mr. Justice Raymond, and Mr. Justice Levins.]

STEPHEN COLLEDGE, while he was prisoner in the Tower, understanding that he was to be tried at Oxford, petitioned his Majesty, that Mr. Thomas Smith, and Mr. Robert West, might come to him, and that he might have pen, ink, and paper, in order to prepare for his defence.

Whereupon an order of council was made, dated the 28th of July, 1681, That he should have pen, ink, and paper; and that Mr. Smith and Mr. West might converse with him as often as he pleased, in the presence of the warder.

The prisoner afterwards preferred another petition, desiring he might have a copy of his indictment, or the particular charges in it: and that Mr. Wallop, Mr. Smith, Mr. Thompson, Darnel, West, Holles, Rotherham, Lovell, Rowney, Pollexfen, and Mr. Ward, might be assigned him for council, and Mr. Aaron Smith for his solicitor; that they might have access to him; and that he might have a copy of the panel some days before the trial.

An order of council was accordingly made, dated August the 11th, that the friends and relations of the said Stephen Colledge should have access to him, and converse with him in the Tower without interruption, their

names being first taken in writing by the lieutenant of the Tower.

On Wednesday the 17th of August, 1681, the judges and commissioners of Oyer and Terminer, and gaol-delivery, being met at the court-house in the City of Oxford, and the usual proclamations made, the prisoner was brought to the bar and arraigned.

The indictment set forth,

“That Stephen Colledge, late of Oxford in the county of Oxford, carpenter, as a false traitor, &c. not weighing the duty of his allegiance, but being moved and seduced by the instigation of the devil, &c. on the 10th day of March, in the 33rd year of the King, did maliciously and traitorously purpose, compass, and imagine to incite a rebellion, depose his Majesty, and put him to death; to alter and subvert the government, and to levy war against the King within his realms. And that in order to effect his said traitorous purposes and imaginations, he did, on the said 10th day of March, at Oxford aforesaid, maliciously and traitorously prepare arms, and did arm himself, and did advise and incite one Edward Tuberville and others, the King’s subjects, to arm themselves against the King, and gave out that it was purposely designed to seize the King’s person, and that he, the said Stephen Colledge, would be one of them that should seize him at Oxford aforesaid. And that the better to accomplish his said traitorous purposes, and promote discord between the King and his subjects, he did, at the time and place aforesaid, in the presence and hearing of many of the King’s subjects, maliciously and traitorously declare, ‘That nothing of good was to be expected from the King: and that the King did mind nothing but beastliness and the destruction of his people, and that he did endeavour to establish arbitrary government and popery.’ And this is laid to be done by the prisoner, against the duty of his allegiance, the King’s peace, and against the form of the statutes in that case made and provided.”

It being demanded of the prisoner whether he was guilty or not guilty, he said, he had been close prisoner in the Tower, and ignorant of what he was charged with; and renewed his instances that he might have a copy of the indictment and of the jury, and that counsel might be assigned him to advise with, whether he had not something in law to plead in bar to this indictment; and he desired also to know upon what statute he was indicted.

The Lord Chief Justice acquainted the prisoner, that the indictment concluding contra formam statuti, it took in all the statutes relating to high treason. That he could not, by law, demand a copy of the indictment, unless some point of law arose which he must propound himself, and if the court thought it fit to be argued, they would assign him counsel. That he could not have a copy of the jury till he pleaded, because there was yet no issue joined whereon a jury could be impannelled; and that they could not tell what notice he had of his trial; but if he was but just taken and brought to the bar, he ought to answer the charge, and plead presently.

The prisoner then desired he might have his papers that were taken from him, as he was brought from the prison into court; he said they were papers that concerned his defence, some instructions how he was to manage himself in his defence, and if they would let

him have those papers he would not take up much of their time; he desired but common justice, he said, and what was his right by law.

The Chief Justice said, they would do him justice without any partiality, and that the bench were to be of council for him, so far as to see that things proceeded fairly on all sides; and as to the papers he mentioned, they would examine them, and if they appeared to be papers necessary to his defence upon his trial, he must have them restored; but he said he did not understand how he came by those papers, for nobody could solicit for a man that was under an accusation of high treason, unless he was assigned so to do by the court.

Colledge.—Lord have mercy upon that man who is so accused then; for how is it possible he should make his defence, if he is not at liberty to look to it himself, nor any of his friends are permitted to do it for him. If I had those papers, I could tell what to plead; but, my Lord, as I am a freeman of London, I conceive, by the charter of London, I am not impleadable out of the liberties of that City in pleas of the crown.

Ld. Ch. Justice.—If there be no treason proved against you in Oxfordshire, you will be acquitted; but a freeman of London can have no privilege to commit treason in Oxfordshire, but he must be tried for it there.

Colledge.—Lilburn and my Lord Stafford had counsel assigned them.

Mr. Just. Jones.—Not till they pleaded to the indictment.

Colledge.—Shall I have my papers after I have pleaded?

Ld. Ch. Justice.—The court will not capitulate with you.

Colledge.—My papers tell me I have a plea in law to the indictment, but what it is I cannot exactly tell without them.

Ld. Ch. Justice.—You are not bound up to forms, if you propose the matter never so loosely, if it will avail you, you shall have counsel assigned, and time to draw it up in form; but till you have proposed the matter, that the court may know whether it be fit to be argued, we cannot assign you counsel if we would; it is not your particular case, but the common course of justice.

Colledge.—If I had my papers I would answer presently; but I hope I shall not be murdered, and denied what is necessary for my defence. This design is not only against me, but against all protestants.

Ld. Ch. Justice.—If we record your refusal to plead, you will be adjudged to stand mute, and sentence will pass against you.

Colledge.—I will not forfeit the privileges the law gives me if I can help it, you shall do what you please with me first; therefore, pray, my Lord, order me my papers that were taken from me.

Ld. Ch. Justice.—They were not taken from you by me.

Colledge.—The keeper took them from me, under pretence of bringing them to your Lordship.

Ld. Ch. Justice.—I do not know how you came by them: Aaron Smith, a common solicitor, came to me last night, and desired to speak with the prisoner; but I told him I did not know how any one could solicit or be of counsel for a man accused of high treason, till he was assigned by the court: for a defence in treason ought to be by plain matters of proof and fact, and not by artificial cavils.

Colledge.—Is it not my right to have a copy of the jury?

Ld. Ch. Justice.—That you have had the opinion of the judges in : you have the liberty of challenging thirty-five peremptorily, and as many more as you will, shewing cause for your challenges ; there are no particular men designed for the jury that we know of, but when you have pleaded we will award the sheriff to impanel a jury.

Colledge.—If the law allows me the liberty of challenging, it is with an intention that I should challenge those persons that I think will not do me justice ; but as they are strangers to me, and I have no opportunity of enquiring after them, by myself or others, I may challenge my friends as well as my foes.

Ld. Ch. Justice.—I hope they will be neither friends nor foes ; but there can be no jury awarded till you have pleaded, and issue is joined.

Colledge.—Pray, my Lord, order me my papers, that I may see if I have any right, or if I have any thing to plead or no : I do not know but the indictment may mention something of misdemeanor as well as treason.

Ld. Ch. Justice.—If they prove no treason against you, the jury cannot find you guilty of misdemeanor here, because you are charged with another crime. In misdemeanor the proceedings are in another manner ; in that offence you have no peremptory challenges, but you may have counsel, which is not allowed to a prisoner in high treason.

Colledge.—I do not know what to say without my papers ; I have neither done or spoken treason ; but this is a horrid conspiracy to take away my life ; nor will it stop here, for it is designed against all the Protestants in England.

Ld. Ch. Justice.—You run out into extravagant expressions : who has any design against your life ? You shall have liberty to give evidence of any contrivance or conspiracy against you on your trial : but the question is now, if you are guilty or not guilty ? And I see no use your papers can be to you as to the plea.

Colledge.—There may be matter of law that I might take advantage of now, which it may be too late to insist upon when I have pleaded.

Mr. Just. Levins.—You are not denied any privilege of an Englishman. When a man is indicted for high treason, he must plead either Guilty or Not Guilty, unless he has matter of law to excuse him from that plea, which he must propound to the court, and then they will assign him counsel : and if matter of law arises upon the evidence of the trial, the prisoner may demur to the evidence, and pray counsel of the court to argue that demurrer ; but I think you must plead presently.

Colledge.—I do not know what are matters of law ; if I had those instructions that are in my papers, I could give a direct answer presently.

Ld. Ch. Justice.—You ought not to have advice to decline your trial.

[Here the prisoner renewing his instances for a copy of the indictment, and it being again denied him, he desired it might be read to him again, and it was read to him twice.]

Colledge.—If I understand the indictment, it says there was a plot

by me and others : now, ought they not to shew there was a plot and conspiracy, as was done in my Lord Stafford's case, before they go about to prove me guilty of it.

Ld. Ch. Justice.—What method the king's counsel will proceed in after you have pleaded, we cannot tell ; but you have not pleaded yet ; do not trifle any longer, it is a plain matter, and requires a very short and plain answer.

Colledge.—Your Lordships are my counsel as well as my judges ; I desire, therefore, if I have a right to plead any other matter, you would declare it.

Ld. Ch. Justice.—There does nothing appear to us.

Mr. Just. Jones.—The court have all of them declared, they know of nothing in law you have to plead.

Mr. Solicitor.—You have heard the opinion of the court ; you have a right to propose any other plea [besides Not Guilty] that you can yourself ; but you have no right to ask counsel till you have pleaded.

Mr. Serj. Jefferies.—As for Mr. Colledge's solicitor, I would put him in mind of the case of the solicitor who was indicted of high treason for soliciting for one who was accused of treason.

Colledge.—If you deny me my counsel and papers, you deprive me of the means of coming at my right, and render me incapable of making any defence. This is the man who took my papers from me, [pointing to him,] let him be commanded to return them ; he said, he had orders to take them from me, and bring them to your Lordship.

Ld. Ch. Justice.—Your papers are of no use in pleading Guilty or Not Guilty ?

Mr. Serj. Jefferies.—Let him plead Guilty or not Guilty, or offer some matter of law to the court fit to be debated, or we must desire your Lordship's judgment.

Colledge.—Pray, my Lord, order the man to return me my papers.

Ld. Ch. Justice.—Perhaps he was a criminal that gave them to you first ; but when you have pleaded, we will hear what you have to move about them.

Colledge.—Possibly I may plead the words were spoken in another place.

Ld. Ch. Justice.—If there be no treason proved in Oxfordshire you will be acquitted.

Colledge.—My Lord, I am indicted by the name of a carpenter, but I am a joiner.

Ld. Ch. Justice.—I know no difference between a carpenter and joiner in law.

Mr. Just. Jones.—They might have indicted you by the name of labourer if they would.

Clerk of the Crown.—Are you Guilty, or Not Guilty ?

Colledge.—Shall there be no advantage taken against me, if I do plead so ?

Ld. Ch. Justice.—We shall make no bargains with you ?

Colledge.—If you are my counsel then, have I any plea in law to make ?

Ld. Ch. Justice.—We know of none, but Guilty or Not Guilty.
Colledge.—Then if you do force me upon this plea, and it cost me my life, at your doors let it be.

Clerk of the Crown.—Are you Guilty, or not Guilty?

Colledge.—I am Not Guilty, in manner and form, as it is laid in this indictment.

Ld. Ch. Justice.—Now he has pleaded, Mr. Attorney, if there be any thing in those papers necessary for his defence, it will be hard to deny him them.

Mr. Attorney.—When he came to prison he had no papers: but I am informed Aaron Smith delivered them to him.

Colledge.—He received them from me in the tower.

Mr. Attorney.—What were the papers you delivered him at the tower?

Colledge.—There are directions how to govern myself in my defence, and instructions to tell me what the law allows me.

Mr. Attorney.—My Lord, there are abundance of niceties proposed for him to move, and it will be strange if men shall be allowed to espouse the cause of traitors at this rate.

Colledge.—I am no traitor.

Mr. Attorney.—You are indicted of high treason.

Colledge.—Aye, by a grand jury made up that morning.

Mr. Attorney.—My Lord, here is a list of the men returned to serve on the jury, with marks set upon them, who are good men, who bad, and who moderate men; I hope he shall not have that paper.

Ld. Ch. Justice.—I would have those papers put into some safe hands, that they may not on the one hand be carried away and stifled, and that the prisoner, on the other hand, may have recourse to such of them as are proper for his defence.

Mr. Attorney.—But, my Lord, I understand that there are several people who go up and down to procure witnesses against the King's evidence, making it a public cause; and here is a list of the witnesses they have picked up.

Ld. Ch. Justice.—He must have that; deliver it to him presently.

Mr. Serj. Jefferies.—Before the prisoner makes use of any papers that have been brought him against the King's witnesses, we desire to know what the purport of them is, and who gave them to him.

Ld. Ch. Justice.—Let us have no heat till the trial is over, brother, and then, if any thing requires our examination, it may be fit to consider it; but in the mean while, what hurt is there if the papers be put into some trusty hands, that the prisoner may make the best use of them he can.

Mr. Attorney.—This is the same thing as to assign him counsel, if his busy solicitor shall procure the advice of counsel, and then communicate it to him.

Colledge.—If you take away all my helps, you may as well condemn me without a trial.

Mr. Attorney.—You are not to have helps to plead dilatory pleas. My Lord, I pray your Lordship's judgment about the papers when you have perused them.

Then the judges looked over a paper called the speech.

Ld. Ch. Justice.—We have seen enough of this to suppress it, and enquire how it came to his hands.

Mr. Attorney.—Here is another, reflecting on the justice of the nation. Call Aaron Smith and Henry Starkey.

Aaron Smith appeared.

Mr. Attorney.—Did you deliver these two papers to the prisoner? Smith.—Nobody is to accuse himself, I desire proof may be made of it.

Ld. Ch. Justice.—We will not interrupt the trial: take a recognizance of Mr. Smith, to be forthcoming during the sessions.

Smith.—I shall not depart, I hope Mr. Attorney will take my word.

Mr. Attorney.—Indeed I shall not; when I gave you leave to go to the prison, I did not think you would have abused my kindness by giving the prisoner papers.

Ld. Ch. Justice.—Well, take his recognizance.

Smith.—It is high time to have a care, when our lives, and estates, and all, are beset here.

Ld. Ch. Justice.—What do you mean by that?

Smith.—I did not mean any reflection upon the court; but I have been threatened since I came to town, though I have not said one word in public company.

Mr. Just. Jones.—You reflect here in the face of the court and the country, upon the government and the justice of the nation.

Smith.—No, my Lord, I have explained what I meant.

Colledge.—Will you not let me have the use of my papers now you have perused them?

Mr. Just. Jones.—The speech is a seditious libel upon the government; we do not think fit to let you have the use of that paper.

Ld. Ch. Justice.—That which contains the names of the witnesses you have; and as for the instructions in point in law, had they been written in your own name, in the first person, you might have had them; but when they appear to us to be wrote by another, and tell you, you must do so and so, this were to allow you counsel in an indirect way, which the law does not give you directly; though, for my part, I had rather he should have too much than too little.

Colledge.—My Lord, some of those things I transcribed out of books myself, and I do not know that Mr. Smith wrote one of them: I hope your lordship will order me my papers.

Ld. Ch. Justice.—You shall have a copy of the paper of instructions, leaving out what is scandalous.

The court having taken a recognizance of 100l. of Mr. Smith, and ordered Mr. Starkey, another of the prisoner's solicitors, to attend, for saying the prisoner was hardly dealt with, in that his counsel were not suffered to come at him, and offering the jailor four guineas to do him what favour he could: they ordered the paper of instructions to be lodged in the hands of the sheriff's son, for the prisoner to peruse, and adjourned till the afternoon.

In the afternoon, the court being set, the panel was called over, and the prisoner having challenged several, at length the jury was sworn.

The jury being charged with the prisoner, Mr. North opened the indictment, and Mr. Attorney opened the evidence, but received some interruption from the prisoner, who complained he opened some things to prejudice the jury against him, which could not be proved.

Then the king's counsel proceeded to call their witnesses, and first, Mr. Dugdale, who was a witness against my Lord Stafford, and whom Colledge attested, at that trial, to be an honest good man.

Mr. Dugdale was sworn.

The prisoner desired the witnesses might be examined apart, which was granted by the court.

Then Mr. Dugdale deposed, that he had been acquainted with the prisoner about two years, and that at some times he seemed mightily bent against Popery, and would say, because the king did not prosecute Papists according to his mind, that the king was a Papist himself, and as deep in the plot as any of them all, and that he had a hand in Sir E. Godfrey's death; and that he told the deponent at Oxford, there was nothing to be expected from the king, but the introduction of Popery and arbitrary government.

Colledge.—Where was this spoken?

Dugdale.—Presently after the king went out of town, we went into the barber's shop, which is just within the Angel Inn, and as you were charging your pistols, you said, Rowley is gone, the rogue was afraid of himself and has shirked away.

Mr. Solicitor.—Who did he mean by Rowley?

Dugdale.—It was his common word for the king; and he has told me at other times, there was no trust to be put in the king; it was the people we must trust to, and we must look to arm ourselves; and he said, he would arm himself, and be here at Oxford; and he told me, in this town accordingly, that he had several stout men that would stand by him in it: their intention was, he said, to root out popery, by which he always meant the established church: and when Dr. Tongue was at his house, he said, he was forced to be at great charges and neglect his business to keep him in order, for if he had not, he said, the rogue had a mind to fling all upon the protestants, that is, the dissenters; for he did not count the Church of England so.

Mr. Attorney.—Who were to be concerned with him in that design of his? Dugdale.—He said he brought Captain Chinton, Captain Brown, and Dr. Lewis to town with him, expecting there would be a rising: I think he told me this here, the Friday after the Parliament sat.

Mr. Jones.—What use did he say he would make of them?

Dugdale.—For the defence of the protestant religion against the king and all his adherents.

Mr. Jones.—What did he say, if the king did not yield to the

Parliament? Dugdale.—He said, if he did not yield to the Parliament, he should be forced to it; I heard him say this at Oxford.

Mr. Serj. Holloway.—Did you hear him say the same in London? Dugdale.—Yes, he said he expected there would be something done at Oxford, and he would go thither with his horse and arms, and the gentlemen I mentioned would go with him: and he said, let them begin when they would, he did not care how soon, his party was the greatest party.

Mr. Attorney.—Did you know Captain Brown? Dugdale.—Yes, he frequented the prisoner's company much, he was in the late army against the king.

Mr. Serj. Jefferies.—Did you see him have any pistols? Dugdale.—Yes, I saw him have pistols in the house at Oxford.

Mr. Attorney.—Do you know of his delivering any marks or signs for the people to be distinguished by? Dugdale.—He gave me, at London, as much ribbon as came to forty shillings, with No Popery, no Slavery, wrought in it, to distribute among our friends, the dissenters, in the country, that they might know one another.

Mr. Jones.—Did you agree to come to Oxford with the prisoner? Dugdale.—Yes, I promised him to come, and did so: and being once at a coffee-house in London with Mr. Colledge and some members of Parliament, a little before they met at Oxford, and talking of some disturbances that might happen here, it was agreed, that in every county where the Parliament had the best interest, a member should be left to manage the people.

Mr. Attorney.—What do you know of any pictures or papers? Dugdale.—I have about me the letter pretended to be interrupted, to Roger L'Estrange; I have received it of the prisoner, and he told me he was the author of it, and he shewed me it in MS. before it was printed, and told me he got Curtis and his wife to print it, but would trust them no more, for they cheated him of the gain.

Ld. Ch. Justice.—What is it, Mr. Attorney? Mr. Attorney.—It is a letter: and a great part of Fitz-Harris's libel is taken out of it. Did he disperse them? Dugdale.—Yes, there were some given to Mr. Boson and Mr. Baldwin.

Here the paper was read.

Mr. Attorney.—What other libels did he deliver you? Dugdale.—I received one like this, where all the bishops are changing their hats for cardinal's caps: it is called a raree-show; (here he produced it) I heard Colledge sing it in Oxford town, and at my Lord Lovelace's, in the country, where Sir Robert Clayton, Sir Thomas Player, and Mr. Rouse, were in company.

Mr. Serj. Jefferies.—How came you there? Dugdale.—Sir Thomas Player invited me.

Mr. Serj. Jefferies.—Where is it, in Oxfordshire? Dugdale.—I cannot tell, it is four miles from Henley, and my lord was at home then.

Ld. Ch. Justice.—My Lord Lovelace is here himself, and hears what he says.

Mr. Serj. Jefferies.—Did he shew you this cut? Dugdale.—Yes, and he said he made it, and sung it before it was printed: and soon after it was printed he gave me one, and we sung it together.

Mr. Attorney.—How did he describe it to you? Dugdale.—The

figure with the pack, he said, was the king, and those that followed him were Topham, Cooper, Hughes, and Snow.

Serj. Holloway.—What was meant by the pack? Dugdale.—The Parliament and all the king's retinue. And then here is the king in the mire again.

Mr. Serj. Jefferies.—Yes, and here are the bishops whom they thrust into the pack when they have got him down in the mire, and then they hoot them all away, as it is in the song.

Ld. Ch. Justice.—Did he explain it thus to you? Dugdale.—Yes, he did, at London. They all were the king and the clergy; and Louse Hall, he said, was Whitehall, because of its poverty.

Here the ballad was read.

Clerk of the Crown.—Rarce-show, to the tune of "I am a senseless Thing."

Mr. Serj. Jefferies.—What did he mean by the two faces? Dugdale.—That the king was half protestant, half papist: and he said the king's party was but a small party to theirs, (the dissenters.)

Ld. Ch. Justice.—Tell us the words he said. Dugdale.—When he found the king would not yield to the demands of the Commons at Oxford, he said, let him begin as soon as he would, he did not care, for their party (meaning the king and his party) was but a handful to him and his party, who, he said, were the true protestants; the others were but protestants in masquerade; and hoped I would be true to his side, and desired me to get good arms for myself.

Mr. Solicitor.—For what purpose did he desire you to arm yourself? Dugdale.—He said, the king had a design to introduce popery and arbitrary power; and he expected when they would begin; and the sooner the better, he would be provided for them: he said this both at Oxford and London.

Mr. Jones.—Did he tell you Captain Brown, &c. were there? Dugdale.—He told me at London they were intended to come down, and he told me at Oxford that the captain and about forty were come down.

Mr. Jones.—Was you in their company here? Dugdale.—I was with Captain Brown, Don Lewes, and several others of that gang; I know their faces though I do not know their names.

Mr. Solicitor.—To what purpose were they to come? Dugdale.—Colledge expected a rising at Oxford, and he was one who debated it at Richards's Coffee-house in London, whether it was not best to leave a parliament man in every county; and their resolution was to be carried from thence to the King's Head Club: and, my lord, the day the sheriffs were chosen, he shewed me a libel, and told me the prisoner dare not print it, it was so dangerous; it was the worst against the king and government I ever heard.

Colledge.—Pray, when did you first give this evidence? Dugdale.—I think in June, about the time you were taken; I gave it before Sir Lionel Jenkins.

Colledge.—Where did you swear these things were done then? Dugdale.—The same words were said in London that were spoken here. In this evidence I have confined myself chiefly to what was said here, for there was more said in London than here.

Colledge.—Did not you swear, at your examination, that what you now say was spoken at Oxford, was spoken in London? Dug-

dale.—I did not name Oxford then, and the truth is, you spoke them both at London and here.

Colledge.—What are you to have for giving this evidence? Dugdale.—I was never promised or received any thing but the charges the king allowed me for my journey into the country.

Mr. Serj. Jefferies.—Have you any other allowance than you had when you was evidence against the Lord Strafford? Dugdale.—No, nor I have not got all that yet.

Colledge.—Pray, observe my question, did not you swear I spoke these words at London, which you swear now I spoke here?

Ld. Ch. Justice.—He tells you what passed both at London and Oxford; and I must inform you, that if treason be committed in two counties, the king may choose which county he will prosecute in, and give in evidence the facts in both counties; indeed, if nothing was said or done at Oxford, your objection would deserve our consideration.

Colledge.—My Lord, in his oath before Sir Lionel Jenkins, about the design of seizing the king, and the party I had, and the arms I provided, he did swear, that I said those words to him in London; but the grand jury there were so wise and honest as to do me justice, and would not find the bill: so their design failing there, they changed the scene to Oxford.

Dugdale.—He said the same things to me at my Lord Lovelace's as we lay in bed together.

Colledge.—What did I say? Dugdale.—That the king was a papist, and designed arbitrary government. We had an hour's discourse in the morning as we lay a-bed, about the parliament and king.

Colledge.—Where did I say the words, in Oxford, and who was by? Dugdale.—You said them at Combes's Coffee-house when no body was by; but at the Angel Inn when you spoke them there were several; and I am sure there were many by at London, particularly Mr. Starkey, Mr. Boson, and Mr. Baldwin, and we all rebuked you.

Colledge.—What arms did you see me have here in Oxford? Dugdale.—You had a case of pistols before you, and some pocket pistols.

Colledge.—I do not deny my having pistols in my holsters; but as for pocket pistols I had but one, and that was his own.

Mr. Serj. Jefferies.—A chissel might have been as proper for a joiner.

Colledge.—You say I confederated with Captain Brown, &c. Dugdale.—You told me Brown had a good allowance, and you would speak that he might have a better, for he was able to do great service when the time came.

Colledge.—From whom was this allowance? Dugdale.—Among you: you know there were several gatherings that I was privy to, though you did not tell me how it was to be distributed.

Colledge.—Did I tell you there were any gatherings for Captain Brown?

Mr. Serj. Jefferies.—He says, you told him no particulars.

Colledge.—Pray, Sir George, do not interrupt me; I am for my life.

Dugdale.—I do not say for him, or for whom, you distributed it; but you gathered money one among another, and you have paid money.

Colledge.—When, and to whom have I paid money?

Mr. Attorney.—You confessed, at your examination, you gave a guinea.

Colledge.—Were you in my company at Oxford any where but at the Coffee-house and the Angel Inn? Dugdale.—I was with you at the Chequer.

Colledge.—In what room, was it above stairs or below? Dugdale.—I cannot tell all the rooms in that house, but it was both above stairs and below. I was two days with you there.

Colledge.—Then it must be Saturday, Sunday, or Monday; for you were at Oxford but those three days. Dugdale.—Nay, I came to Oxford either Wednesday night or Thursday morning, and saw Mr. Hunt and you together the same day I came.

Colledge.—Did I explain any pictures to you at London, or own I was the author of them? Dugdale.—Yes, upon my oath. And there is one I have not shewn yet, (viz.) A Character of a Popish Successor, &c.

Serj. Holloway.—How did he explain that to you? Dugdale.—These are a parcel of tantivy men riding to Rome, and here is the Duke of York, half man, half devil, tramping before them.

Colledge.—You have got some body to explain these things to you.

Dugdale.—You did, upon my oath.

Colledge.—Oh fie! Mr. Dugdale, consider what you say.

Dugdale.—And in one place, in the Raree-show, it was, in MS. "Now, now the Rogue is down," but it is another name in the print.

Mr. Serj. Jefferies.—It is, "Now, now the Giant is down," here.

Colledge.—Is the song I sung at my Lord Lovelace's, the same with this?

Dugdale.—Generally it is, I cannot say word for word; but you sung it half a dozen times, and the music played to you.

Colledge.—Was any body by at my explaining these pictures?

Dugdale.—Yes, Mr. Baldwin, and he reproved you for being so open.

Mr. Attorney.—Did not Colledge endeavour to establish your credit at my Lord Stafford's trial?—Colledge. I acknowledge I was sworn at that trial, but what I said then was by hearsay; I knew nothing of my own knowledge of him, but I did believe him another man than what I find him.

Mr. Serj. Jefferies.—No doubt of it, or you would not have trusted him.

Mr. Stevens was sworn.

He deposed, that by order of counsel, he and Mr. Atterbury searched the prisoner's house, and found the original of the Raree-show in his bed-chamber, and also those that were printed.

Atterbury was called.

He deposed, they found the original, drawn with a pencil on Dutch paper, on the table in Colledge's chamber, but that they had lost it, and could not produce it in court.

Colledge. I am sure you could not find the original of any such thing in my house.

Mr. Sewell was sworn.

He deposed, that they found the papers he produced in court, in a bag, in the possession of Colledge's wife.

Mr. John Smith was sworn.

He deposed, that he was intimately acquainted with Colledge, the prisoner; and that meeting him once at a coffee-house by Temple-bar, Colledge told him he was invited to dinner with Alderman Wilcox, and desired the deponent would go with him; and said, he would be welcome: that as they were going, the deponent asked what the Alderman was? and Colledge said, he was as true as steel, and was a man that would endeavour to root out popery. That the deponent answering, that may easily be done, if you can prevail with the King to pass the bill against the Duke of York: Colledge replied, no, you are mistaken, Rowley, (the King) is as great a papist as the Duke of York, and every way as dangerous to the protestant interest, as is too apparent by his arbitrary rule. That when they came to the place where they were to dine, the Alderman not being come, the deponent asked what kind of man he was? and Colledge said, he was one that lived at his country-house, and gave freely to several people to buy arms and ammunition, in order to bring the King to a submission to his people, adding, he wondered old Rowley did not consider how easily his father's head came to the block, which he doubted not would be the end of Rowley at the last. That after they had dined, Colledge asked the deponent to go to his house, and see how he was provided with arms; and that at another time he dined with Colledge, who shewed him his pistols, blunderbuss, and great sword, and his armour, back, breast, and head-piece, and said, these are the things which will destroy the pitiful guards of Rowley, which are kept contrary to law and justice, to set up arbitrary power and popery.

That a little before the parliament met at Oxford, Colledge and the deponent were discoursing what preparations the city were making, and how they were provided with powder and bullets: and Colledge said, for his part, he would go down to Oxford, for he expected a little sport there upon the divisions that were likely to be between the King and parliament: and Colledge added, we expect the King will seize on some of the members, and we are as ready as he; and for my part, I will be there, and be one that shall seize him, if he secure any of the members.

That after Colledge came up again, he told the deponent he went down in expectation of some sport, but old Rowley was afraid, like his grandfather Jamy, and so ran away in great perturbation. And at another time, Colledge told him, that Fitz-Gerald and he had a quarrel at the door of the house of Lords, at Oxford, and that Fitz-Gerald called him rogue, and made his nose bleed; but he said, before long, he hoped to see a great deal more blood shed for the cause. And when there was a discourse of my Lord Feversham's disarming the city, Colledge said, he was well provided, and if Feversham, or any man, nay Rowley himself, should attempt any such thing, he would be the death of him, before any man should seize upon his arms.

Serj. Jefferies.—Did he desire you to provide arms for yourself?
Smith.—He desired me to get arms; for he said I did not know how

soon I might make use of them ; and I had armour from him, but it being too big, I returned it him, and bought new. He did not say to what purpose we must arm.

Mr. Attorney. — What did he say about seizing the King ? Smith. — He said the parliament had agreed to secure the King, and in order to it, the parliament-men were to come armed with their men.

Colledge. — What religion are you of ?

Smith. — Shall this man ask me such a question, my Lord ?

Ld. Ch. Justice. — Answer him.

Smith. — I am a protestant, and in orders.

Colledge. — You were a priest, and had your orders from the church of Rome.

Smith. — And that is a good ordination ; I came in voluntarily, and discovered the popish-plot, and have received no pension or salary from the King, but spent my own money, and was the darling of the city, while I did what they would have me do.

Mr. Attorney. — Were not you a witness at my Lord Strafford's trial ? Smith. — I gave a general account of the design of the papists, and my reputation was not then questioned.

Colledge. — I do not know one word of what he testifies against me ; nor can I distinguish the times he says we had those several discourses : he is the falsest man that ever spoke with a tongue.

Bryan Haynes was sworn.

Mr. Attorney. — Tell the court what discourse you have had with the prisoner. Haynes. — I have been acquainted with him ever since March last, before the sitting of the parliament at Oxford ; there being a warrant out against me, I applied myself to Mr. Colledge, who promised to advise with a person of honour to know whether it might not be superseded ; and the next day when I came to him to know the result, he bid me be of good cheer, for the parliament would sit at Oxford soon, and I need not value the King a pin ; for says he, " he is in a worse condition than you or I, and you shall see him called to an account for his actions ; the world sees he resolves to bring in arbitrary power and popery, and unless he lets the parliament sit at Oxford, we will seize him there, and bring him to the block, as we did the loggerhead his father. The parliament shall sit at Guikhall, and redress the subject's grievances, and you shall see, that no King of his race shall ever reign in England after him."

Ld. Ch. Justice. — Where was this he said so ? Haynes. — I walked with him from his own house by Bridewell, to the Hercules Pillars, and we went up stairs, and there we had all this discourse ; and when I asked how this was possible, though the Duke of Monmouth was a fine Prince, and stood up for the protestant interest, as they pretended ; and Colledge answered, we make but an idol of him to cover our real design. Do you think the wise people of England will ever make a bastard upon record, King of England ? no, though we praise his actions, we cannot endure him, because he is against his own father, but unless the King expel from his council the Earl of Clarendon, the cunning Lord Hyde, and the Earl of Halifax, that great turn-coat rogue, who was once so much against the papists, we shall make England too hot for him.

Colledge. — Pray how is this possible ?

Haynes. — You knew my condition, and I had intimated that I was

as much for treason and villainy as you at that time ; and when I objected there was no preparations equal to such a design, and that the gentlemen would hardly quit their ease for a civil war, says he, " You are mistaken, we have 1,500 barrels of powder in the city, and 100,000 men ready at an hour's warning, and we have prepared every thing against the sitting of the parliament at Oxford ; and you shall see England the most glorious nation in the world, when we have cut off that beastly fellow Rowley ;" and he added, " the King came of a race of ———, for his grandfather, King James, ——— the old Duke of Buckingham." Then he railed at Judge Pemberton, and said, " let him try Fitz-Harris if he dare, I shall see him go to Tyburn for it I hope, a turn-coat rogue." And another time he put me upon charging the King with firing the city before some company, and the murder of Sir E. Godfrey : and as we were talking of Fitz-Harris's libel, he said, " the devil take me, every individual word is as true as God is in heaven ; and if you do not join with Fitz-Harris, and charge the King home, you are a base fellow, for he makes you slaves and beggars, and it is charity to charge him home, that we may be rid of such a tyrant.

Serj. Jefferies.—Mr. Colledge, you may ask him any questions. Colledge. Certainly my Lord, the thing speaks it ; he is not to be talked withal. Is it probable I should talk to an Irishman, that does not understand sense ?

Haynes.—It is better to be an honest Irishman than an English rogue.

Colledge.—Did you ever see me before last March, when you say this discourse was about superseding the warrant ? Haynes.—I had no intimacy with you, but I had seen you in coffee-houses bawling against the government.

Colledge.—Then this was the first time you discoursed with me ? Haynes.—No, once you set me to quarrel with one at the Queen's Head at Temple-bar, and you were with me the night before with Captain Browne, and they gave us a blue ribbon to distinguish we were protestants from bishop's men, which we were to use when the King was seized. And when Colledge returned from Oxford, I told him the King had made a fool of them ; and he answered, they had not done with him yet. That nobody did suspect he would dissolve the parliament that day he did ; and that he took coach and went away before the parliament could get down, otherwise they had been too hard for him ; for there was never a parliament man, but had divers armed men to wait on him ; and says he, I had my blunderbuss and my man to wait on me ; but there is a God above will rule all.

Colledge.—When was the first time I talked with you ? Haynes.—I told you before.

Ld. Ch. Justice.—Tell him when was the first time you came acquainted with him.

Haynes.—In April last.

Colledge.—You said it was before the sitting of the parliament, which was in March.

Haynes.—I meant in March.

Colledge.—Then gentlemen, pray consider whether it is probable I should discourse with him at that time in this manner. You say I

desired you to make an affidavit about Fitz-Gerald, was it before or after I had this treasonable discourse with you? Haynes.—After the affidavit, when we went to the Hercules Pillars, about a week after.

Mr. Attorney.—Did he deliver you a ribbon, as a mark of distinction? Haynes.—Yes, here it is. [he shewing it in court.]

Mr. Turberville has sworn.

Serj. Jefferies.—Pray acquaint the court what discourse you have had with Mr. Colledge.

Turberville.—About the middle of that week when the parliament sat at Oxford, I dined with Mr. Colledge, Captain Brown, and Don Lewes, at the Chequer Inn here; and after dinner, Don Lewes being absent, and Brown asleep on the bed, Colledge and I fell discoursing of the times; and I said, I thought the parliament was not a long-lived parliament, and Colledge replied, there is no good to be expected from the King, he and all his family were papists, and had ever been such. Perhaps, said I, the King will surprise the parliament, or use some stratagem to bring them to his terms; and Colledge answered, I would he would begin, but if he does not, we will secure him till he comes to those terms we would have from him, for here are several brave fellows about this town, and many more are coming, that will join in it. And he said, he had got a case of pistols, and a very good sword, and I believe he had armour on, but I cannot be positive.

Mr. Attorney.—Did he tell you he came down on purpose to seize the King? Turberville.—Yes, and gave me a piece of blue ribbon to put in my hat, to distinguish us, if there should be any disturbance; and when I told him I had not a horse, and nothing but a case of pistols, he bid me not trouble myself, for he would get me a horse.

Colledge.—What to do? Turberville.—He said, there was a design to seize the King.

Mr. Attorney.—Did he desire you to be one? Turberville.—He desired me to be ready to assist.

Mr. Jones.—How much ribbon had he? Turberville.—Forty or fifty yards.

Colledge.—Did I speak of any body that was to join with me?

Turberville.—You did not name any body to me, but Captain Brown was with you.

Colledge.—Pray how came I to talk treason to you, was any body by? Turberville.—No, Captain Brown was gone to sleep, and Lewes was gone out.

Colledge.—God forgive you, I never held any such discourse in my life: pray when did you give in this information against me? Turberville.—I believe a day or two before I came to Oxford.

Colledge.—Why did you do it then and not before? Turberville.—Mr. Dugdale told me the grand jury of London would not find the bill, which I wondered at; for every one that conversed with him might have been an evidence against him, he was so lavish of his tongue against the King and government; so Colonel Warcup came and took my examination.

Serj. Jefferies.—My Lord, here is one Mr. Masters, whom Mr

Colledge will allow to be a man of undoubted reputation, I desire he may give the jury an account of the prisoner ?

Mr. Masters was sworn.

Serj. Jefferies.—Pray tell the court what discourse you had with the prisoner.

Mr. Masters.—I have been many years acquainted with Mr. Colledge, and have often reprov'd him for being so violent; but a little before the parliament at Oxford, we were discoursing of the government, and he justified the actions of the long parliament in 1640. And I asked him how he could have the impudence to justify their proceedings, who raised that rebellion against the King, and cut off his head? And Colledge answered, they did nothing but what they had just cause for; and the parliament that sat last at Westminster, was of the same opinion. And the thirteenth of May afterwards, when the common council met at Guildhall, seeing him there, said I, Colonel Colledge, what do you make all this bustle for? And he answered, marry, mock not, I may be a Colonel in a little time.

Sir William Jennings was sworn.

Mr. Jones.—What do you know concerning Mr. Colledge at Oxford? Sir W. Jennings.—I had no knowledge of Mr. Colledge before he came down to Oxford, otherwise than as I had seen him in a public coffee-house; but when I was at Oxford, observing several people looking at a picture, I crowded in among the rest; and after the crowd was over, Mr. Colledge took a picture out of his pocket, and said he would give me one, which I accepted. There was written Mac-a-top on it, and several figures were on it. [Here a picture was shewn him, which he said was the same.] And shewing it to Justice Warcup, he bid me 'give it him, which I did. Another time I saw Mr. Colledge bring a parcel of blue ribbons into a coffee-house, with these words wrought twice in every quarter of a yard, viz. "No Popery, No Slavery:?" and I saw him sell a yard of it for two shillings, to one whom I took to be a member of parliament, and the gentleman took it and tied it upon his sword. What I have farther to say is, that the day the parliament was dissolved, as I was standing in the School-yard, Mr. Colledge came up to me, and told me he had been in a quarrel; Mr. Fitz-Gerald had spit in his face, and he spit in his face again, and so they went to loggerheads. I said, Mr. Colledge, your nose bleeds; and he answered, "I have lost the first blood in the cause, but it will not be long before more be lost." When I came to London afterwards, I met him in Fleet-street on a Sunday; how now, honest joiner? said I. You call me honest joiner, said he, but some call me rogue and rascal, but I have been beating some of them that I believe will be aware of it; and I observed to Captain Crescet, who was with me, that I never met this man, but he had been in some quarrel.

Colledge.—Sir William, you are a gentleman, and have a regard to your word and honour, as for the other witnesses, they do not care what they say; nor am I much concerned about it. Pray will you recollect yourself; I was vindicating the commons and Doctor Oates, whom Fitz-Gerald had abused, and upon that the quarrel began;

so when I met you, and you told me my nose bled, I said, "I have lost the first blood for the parliament, I wish it may be the last." Were not these the words? Sir W. Jennings.—I have said before, as I do now, that I had rather have served the King in three engagements, than have come hither against you, or any man, upon this occasion; nor have I any prejudice against you, but, to the best of my memory, the words were as I spoke them at first, and nothing of the parliament mentioned; and having told Justice Wareup this story, I am brought hither to attest it.

Serj. Holles.—We have concluded our evidence for the present, till we see what the prisoner says to it.

Ld. Ch. Justice.—Then Mr. Colledge, you may say what you will in your defence, and call your witnesses.

Colledge.—My Lord, the Jurisdiction against me, is for treasonable practices and a conspiracy. I desire to know if there be any conspiracy proved, or any thing but what they say, I said?

Ld. Ch. Justice.—If the witnesses speak true, there is plain proof of a conspiracy. As your publishing libels and pictures to make the King odious and contemptible in the eyes of the people, and being the author of them; and your preparing arms, and shewing them to Smith, and saying, you would go to Oxford, and if there should be a disturbance there, you would secure the King; and you did come to Oxford accordingly, and you hear what Dugdale and Turberville say you said and did there. Now this is strong evidence against you, for an endeavour to seize the King's person has been always held to be treason, by the 25th of Ed. III. for kings are never made prisoners, but in order to their death. And the statute of the 13th of this King is stronger against you, for that says, if a man shall, by any words, or malicious speaking, shew the imagination of his heart, that he hath such intention, that is treason too.

Colledge.—I would know if there be sufficient matter to ground this indictment upon? For one swears what was done in one place, and the other in another: and I would ask your lordship if there ought not to be two witnesses of the same words spoken at the same time.

Ld. Ch. Justice.—It hath been often resolved that there need not be two witnesses to every overt-act, but one witness to one overt-act, and another witness to another conducing to the same treason is sufficient, though the acts were in several counties.

Colledge.—My lord, I do not doubt but I shall prove this to be one of the most hellish conspiracies that ever was plotted: a design to destroy all the Protestants in England that had courage to oppose the popish plot, in which no man of my condition has done more than I have: if these witnesses had known me guilty of such a design as I am charged with, and had been good subjects, they would have apprehended me at Oxford: but how improbable is it, that I should talk such things with papists, priests, and Irishmen, who had broken their faith with their own party, which they had given under a penalty of damnation, men who had been concerned in plots and treasons, to cut the throats of Protestants: indeed I did hear there was a design of destroying the parliament at Oxford, and against all Protestants; and I was resolved, if I lived, to come along with the

parliament; and if there was any such design, to live and die with them; but my arms were no more than a sword and a case of pistols; my lord, I had the honour to be sent for before the sitting of the last parliament at Westminster, by some noble peers, to the Crown tavern behind the Exchange: (I began then to be popular, and to be called the Protestant Joiner.) And the Duke of Monmouth said, they heard a good report of me, and that I understood building, and they confided in me to search under the Parliament House, that there might be no tricks played them by the Papists; and my Lord Lovelace went with me and some of the House of Commons, and I received thanks for my service. And, my lord, there was not only an oath made of a design to destroy the parliament at Oxon, but it was the general belief some evil was intended them; and people generally armed themselves with sword and pistol, lest they should be attacked by the Papists: and I came down two days after the parliament sat, with the Lords Howard, Clare, Huntington, and Pagett, and went to town again with the Lord Lovelace, Sir Thomas Player, and Sir Robert Clayton, who were all in great fear of London being surprised by the Papists; but no mortal man ever heard of the king's being seized, till these men come and say I had such a design, and came hither for that purpose: but, my lord, it is a most wicked falsehood; I know no man, either parliament man or other, that would have stood by me in such a design; and can any man suppose that I would singly have made such an attempt: I declare, I never knew of any design against the government, or spoke one of the treasonable words I am charged with: God, my eternal Judge, knows that I speak true.

Ld. Ch. Justice.—Are not your witnesses together? send to them. Colledge.—I do not know, I have not seen one of them since I came; this is not the first time the Papists have had a design against my life, though it is the first time they went about to take it away by law.

Ld. Ch. Justice.—I do not know one Papist that was a witness against you.

Colledge.—Every man of them have been Papists, except Sir William Jennings.

Mr. Attorney.—Was Mr. Masters? Colledge.—He testifies only some merry discourse.

Mr. Just. Jones.—Do you make merry with the blackest tragedy that ever was, that horrid rebellion and the murder of the king?

Ld. Ch. Justice.—Do you call any more witnesses?

Serj. Jefferies.—I think we need not.

Ld. Ch. Just. Then, Mr. Colledge, you may make your observations on the evidence.

Colledge.—My Lord, I have nothing but innocence to plead; no flourishes to set off my defence: I cannot take the Jury or the court with oratory; but I declare, in the presence of Almighty God, that what is sworn against me concerning providing arms, or a design to seize his Majesty, or to rebel against the established government, is all a fiction, I never had such a thought; it is true they have sworn desperately against me, but I think it appears they have contradicted one another. It has been proved this was a design, and that they were tampered withal, that they com-

plained of their poverty, and wanted maintenance ; and confessed they were]tempted to come over and swear against protestants, and they have begun with me ; but I hope the jury observe I have sufficiently contradicted their evidence. And is it possible to imagine, if I had a grain of sense, that I should discover myself to such a one as Haynes, an Irishman, and speak all that treason he has galloped through, the first time I saw him. Every witness, I think, has been confuted by men of principle, persons of integrity and honesty (though most of them were unknown to me) and have offered their testimony voluntarily ; and there is no probability they should come and attest a falsehood for me, who am a stranger to them, for nothing. My Lord, I am a protestant, and have been a lover of the Church of England, and profess the same faith, and never had a prejudice against any churchman, but such as promote the interest of the papists, for such there are amongst them. I confess, I have heard some dissenters, and have found them honest, just, and pious, free from oaths and debauchery, and unlike some who call themselves of the Church of England, and lead such lives, that no credit can be gained to the church by them. My Lord, I have been a hearty man against the papists, and for the parliament, and am sorry any man should create mis-understandings between the King and parliament. I always thought I served my King when I served the parliament. I had the honour to be entrusted by them ; and, upon that account, I came voluntarily down hither at my own expence ; and ever since the discovery of the plot, have done my utmost to come at the bottom of it ; and have encouraged those who discovered those villainies against the life of the King, and against our religion and government. And these men who swear against me, were they who used to follow me for bread ; they used to say they thought it hard they came to save our lives, and we let them want bread ; and I have collected money for them ; and sometimes they thought fit to petition the common-council for relief ; sometimes they have pretended to me they would make farther discoveries of the popish plot ; and the first time I saw Haynes, was upon such an account, in March last. He said he would discover a piece of roguery against my Lord Shaftesbury's life, and I went with him and Captain Brown from Richard's coffee-house to the Hercules Pillars, where he told us of that design to destroy the parliament at Oxford, and of an army that was to land in the North, and another in Ireland, and the Duke of York was to lead them. At another time, Haynes came to me, under pretence of discovering the whole design concerning the murder of Sir E. Godfrey, and said, if my Lord Shaftesbury would engage to get his pardon, he would discover the whole truth. When I acquainted my Lord with it, says he, These Irishmen have confounded all our business : thou and I must have a care they do not put a trick upon us. This may be a trick of the papists to ruin us. Afterwards, they brought Mrs. Fitz-Harris to my house to confirm what they had told me ; and Haynes said in my yard, that he saw my Lord Danby come to the chapel of Somerset-House, when the body of Sir E. Godfrey lay under the altar.

Ld. Ch. Justice.—You ramble from the matter ; I would have you keep to your proofs, and make your observations upon them ; to tell

us long stories of what passed between you and others, and is not a whit proved, is not usual, or pertinent.

Colledge.—My Lord, I did not hear half that was said, I hope your lordship will remember it for me: You are my counsel as well as my judges.

Ld. Ch. Justice.—In matter of fact, we are.

Colledge.—As to what Smith says of the discourse between the coffee-house and the tavern where we dined with Mr. Wilcox, it is not above a bow-shot from one place to the other, and he made it a quarter of a mile's discourse, if I had had all the talk; and Dr. Oates tells you too, that Smith swore he would have my blood; and Smith says, I shewed him my arms, and that they were to destroy the King's guards; whereas I have had them these three years, and he does not prove I had any confederates; but on the contrary it has been proved, that he said he did not believe there was any protestant plot, and that I said it wantonly. And as for my being in company with Captain Brown and Lewes, they were friends of my Lord Howard's, with whom I came down to Oxford, and they lay at the Chequer where I did; and it is not shewn that we were in any conspiracy.

Ld. Ch. Justice.—If you came with a real purpose to seize the King, that is an overt-act; and the words before prove the intention.

Colledge.—As to the evidence Mr. Masters gives of a discourse with me in Mr. Charlton's shop of the parliament in 1640, Mr. Charlton would have done me right if he were here. Mr. Masters was saying that parliament cut off the King's head, and I said they did not. Then we disputed whether they began the war against his Majesty: I said it was the papists, and that that parliament was an honest parliament, and minded the true interest of the nation; and that they were much of the same opinion with the parliament that sat last at Westminster.

Ld. Ch. Justice.—But they are guilty of a rebellion, and are declared rebels by act of parliament since the King come in. Read the 13th of the King, where words are declared to be treason. [Which was done.]

You see, that to compass or imagine the imprisonment of the King, and to express it by malicious and advised speaking, is treason, when proved by two lawful witnesses.

Colledge.—What lies before the jury, as done at Oxon, is supported only by a single testimony.

Mr. Just. Levins.—Nay! Two witnesses swear the same thing, viz. your design to seize the King in Oxford: and if it was requisite, the same thing should be proved to be said at the same time by two witnesses, the King must be very unsafe; for the conspirator would be sure never to say the same things before two witnesses at the same time.

Colledge.—If the King is not safe upon those terms, no private man is safe the other way. All society and conversation is at an end.—However, I insist that the testimony of these men is invalidated by substantial per-

sons; I am wholly innocent: the jury are my judges, and I beseech them, as they will answer me at the great day of judgment, that they will do me right.—If a man shall be sworn against by such fellows, Papists, Irishmen, and such as have declared themselves traitors, and to have been in all manner of rogueries, plots, and murders, no man can be safe. I hope your lordship will inform the jury rightly; and that the jury will consider whether there has not been more occasion of talking of late, and whether a slip of the tongue ought to be construed a malicious advised speaking, I mean my discourse with Mr. Masters, who talked with me as hot as fire, at that rate I told you.

I desire the jury will take all into their consideration. I expect a storm of thunder from the learned counsel. I am unlearned, and must defend myself without counsel. I know not whether this be the practice in any nation; but it is hard, that I, who am an illiterate man, must stand here all day not qualified to write or speak, and they being many and learned in the law, shall take all advantages against me a single person. I take God to witness, I am as innocent as any person upon earth, and beseech you not to be frightened nor flattered. Do according to your judgments and consciences; you are my judges both as to law and fact; you may acquit or condemn me, and my blood will be required at your hands. The Lord Almighty direct you to do me justice, and I ask no more.

The Chief Justice having briefly summed up the evidence, Mr. Colledge complained there were many things omitted; but the Chief Justice said, he should refer the rest to the jury; and Mr. Justice Jones said, he could add nothing to what my Lord had said.

Colledge replied, he desired nothing but justice, and hoped that nobody should be permitted to be with the jury; for he said, he observed that when the bill was preferred against my Lord Howard, Mr. Attorney and Mr. Solicitor were an hour and a half with the Grand Jury: the court said they might be with the Grand Jury, but a bailey should be sworn to keep the Petit Jury, that nobody come at them till they should be agreed of their verdict.

The court then ordered the jury some refreshment

before they went from the bar, the trial having lasted till three in the morning, and they had two bottles of sack divided among them in the prisoner's presence.

The jury being withdrawn about half an hour, brought the prisoner in Guilty, at which there was a great shout, and one person was committed, but discharged the next day. And Aaron Smith was ordered to enter into a recognizance of 500*l.* to appear in the Court of King's Bench the first day of the next term.

The next day the prisoner being brought to the bar, and it being demanded what he could say why the court should not give judgment on him to die, according to law, Mr. Colledge said, that at London it was sworn against him that he would pluck the King out of Whitehall, but now they said he was to seize the King at Oxford; he was wholly innocent of either, and never entertained such a thought in his life, and prayed God to forgive them that had sworn against him.

Sentence was then pronounced upon Stephen Colledge as a traitor.

Colledge.—What time will your Lordship allow me for my preparation?

Ld. Ch. Justice.—We do not use to precipitate the execution in cases of high treason; we shall leave order with the sheriff to receive the King's pleasure and obey it; he will not do it so suddenly, but you will have notice to prepare yourself.

The court then adjourned, and on Wednesday the 31st of August, 1681, being the day appointed by his Majesty, he was executed over against the gate of the castle at Oxford.

ANTHONY EARL OF SHAFTESBURY,
 FOR HIGH TREASON,
 AT THE SESSIONS-HOUSE, OLD BAILEY,
 NOVEMBER 24th, 1681.

WHEN the bill was offered, Sir Francis Withins moved that the evidence might be heard in court.

Ld. Ch. Justice.—Gentlemen of the jury, you hear it is desired by the king's council, (and that we cannot deny) that the evidence may be publicly given, that it may not be hereafter in the power of any ill-minded persons abroad, to report any mistakes or untruths through the country; or to slander the king's evidence, or to say anything concerning them that is not true: therefore we cannot deny this motion of the king's council, but desire that you will take your places, and hear the evidence that shall be given you.

The jury then desired a copy of their oath, which the court granted, and they then withdrew. After some little time they returned, when the clerk called them by their names.

Foreman, Sir S. Barnardiston.—My Lord Chief Justice, it is the opinion of the jury, that they ought to examine the witnesses in private and it hath been the constant practice of our ancestors and predecessors to do so, and they insist upon it as our right to examine in private, because they are bound to keep the king's secrets, which they cannot do, if it be done in court.

Ld. Ch. Justice.—Look ye, gentlemen of the jury, it may very probably be, that some late usage has led you into this error, that it is your right; but it is not your right in truth: for I will tell you, I take the reason of that use for grand juries to examine the witnesses privately, and out of court, to relate to the conveniencies of the court, for generally upon such commissions as these are, the business is heavy; and at gaol deliveries there are a great many persons to be indicted and tried, and various other business to be transacted: and if at such times we should examine all businesses publicly in the court, it would make the

business of these commissions so much the heavier. On this account, gentlemen, the judges, for the convenience of the matter, have allowed, that witnesses should go to the jury, and then to be examined; not that there is any matter of right in it, for without question originally all evidences were given in court; the jury are officers and ministers of the court by which they enquire, and evidence sure was all given in court formerly; and the witnesses still are always sworn in court, and never otherwise. And, gentlemen, I must tell you, it is for your advantage, as well as for the king's, that it may be sure, that you comply with your evidence, that you do nothing clandestinely; therefore it is for your advantage that this is done, and the king likewise desires it. Now I must tell you, that if the king require it of us, and it is a thing that is in its nature indifferent, we ought to comply with the king's desire, to have it examined in court; you shall have all the liberty that you can have in private; what question soever you will have asked, yourselves shall ask it, if you please, and we will not cramp you in time, nor anything of that nature. Therefore, gentlemen, there can be no kind of reason why this evidence should not be given in court. What you say concerning your keeping your counsels, is quite of another nature, that is, your debates, and other matters, when you shall be in private to consider of what you hear publicly. But certainly it is the best way, both for the king, and for you, that there should in a case of this nature, be an open and plain examination of the witnesses, that all the world may know what they say.

Foreman.—My lord, if your lordship pleases, I must beg your lordship's pardon; if I mistake in anything, it is contrary to the sense of what the jury apprehend. First, they apprehend that the very words of the oath doth bind them, it says, "That they shall keep the council's, and their own secrets:" now, my lord, there can be no secret in public; the very intimation of that doth imply, that the examination should be secret; besides, my lord, I beg your lordship's pardon if we mistake, we do not understand anything of law.

Mr. Papillon, one of the jury.—Your lordship is pleased to say, that it hath been the common usage and

practice; sometimes, my lord, we have heard, that that hath been the law of England, that hath been the custom of England: if it be the ancient usage and custom of England, that hath never been altered from time to time, and hath continued so, we desire your lordship's opinion upon that, as we would not do anything that may be prejudicial to the king, so we would not do the least that should be prejudicial to the liberties of the people; if it be the ancient custom of the kingdom to examine in private, then there is something that may be very prejudicial to the king in this public examination; for sometimes in examining witnesses in private, there happen to be discovered some persons guilty of treason, and misprision of treason, that were not known, nor thought of before. Then the jury sends down to the court, and gives them intimation, and these men are presently secured; whereas, my lord, in case they be examined in open court publicly, then presently there is intimation given, and these men are gone away. Another thing that may be prejudicial to the king, is, that all the evidences here will be fore-known before they come to the main trial upon issue by the petty-jury; then if there be not very great care, these witnesses may be confronted by raising up witnesses to prejudice them, as in some cases it has been: then besides, the jury do apprehend that in private, they are more free to examine things in particular for satisfying their own consciences, and that without favour or affection; and we hope we shall do our duty.

Ld. Ch. Justice.—Look ye, Mr. Papillon, it is reasonable that we should give you our advice in this case: I must tell you, if you had considered of what I had said before, I thought I had obviated these objections: first, as to that you say that you are bound to conceal your counsels, and the king's secrets, that is very true; as to your counsels, that is, your debates, you are bound to conceal them: as to the king's secrets, so long as he will have them kept secret, you are bound to keep them so too, but it doth not deprive the king of the benefit of having it public, if he have a desire for it; you do not break your oath, if the king will make it public; you do not make it public, it is the king does it. Then as to that, that you say, that you apprehend the common usage of the

kingdom to be a law ; that is true, Mr. Papillon, in some degree ; a constant and uninterrupted usage goes for a law among us ; but I thought I had told you before, that both in ancient and later times there have been examinations of the witnesses in court, in cases of this nature ; and we are not without precedents of it ; every year, every term, continually from time to time, evidence is heard in court by the grand jury ; it is as usual a thing with us, as anything, if it be desired, nothing more frequent, or more common : I never heard it denied, or objected to by any grand jury, in my life, till of late here ; you may be instructed with a thousand precedents, for I am sure it is a common and ordinary case upon such occasions, if desired to hear the evidence in court.

Look ye, gentlemen, as to that care that you have of the king's affairs, the king has reason to take it well that you are so careful of them ; and that you are so mindful of his concerns, he hath very great reason to think well of you for it : and, gentlemen, estimate this, that his majesty's council have certainly considered of this evidence before they brought it to a public enquiry ; or else it would be a hard thing if they should come raw, and not know what the witnesses can say ; for though you are the jury to hear the witnesses, yet you must consider, that the king's council have ascertained whether they have cause to accuse these persons or not ; and, gentlemen, they understand very well, that it will be no prejudice to the king to have the evidence heard openly in court ; or else the king would never desire it.

Foreman.—My lord, the gentlemen of the jury desire that it may be recorded, that we insisted upon it as our right ; but if the court overrule, we must submit to it.

Ld. Ch. Justice.—Here are enough persons to take notice of it ; to make records of such things, is not usual ; it is not our business here to record every thing, that every man will desire to be recorded : we can record nothing but what is in order to the proceedings, but notice enough is taken of it ; you need not fear but that there will be witnesses enough.

Ld. Ch. Just. North.—Gentlemen, I must say something to support what my Lord Chief Justice has said : if any of us had been of a different opinion, we would have spoken it ; the same thing was objected, and dis-

coursed on the last sessions, and then all the judges were of this opinion, and in what all the judges agree to, you should acquiesce. I must tell you from my own experience; where the king will, he ought to have it kept secret: I have not known it done publicly in the ordinary course of business; but I have often known where it hath been desired by those who prosecute for the king, that evidence hath been given openly; and I never knew it denied; if any of my brothers think otherwise, I desire they would speak; but, I tell you, as to my experience, this is the case.

Sheriff.—I desire the witnesses may be kept out of the court, and called one by one.

Ld. Ch. Justice.—It is a thing certainly, that the king's council will not be afraid of doing; but sheriffs do not usually move anything of this nature in court, and therefore it is not your duty, Mr. Sheriff, to meddle with it.

Sheriff.—It was my duty last time, my lord, and appointed.

Attor. Gen. [Sir Rob. Sawyer].—You were acquainted it was not your duty last time, and you appear against the king.

Then the indictment was read.

London Sessions.—The jurors for our Sovereign Lord the King, upon their oaths present, that Anthony Earl of Shaftesbury, late of the parish of St. Martin's in the Fields, in the county of Middlesex, as a false traitor against the most illustrious, and most excellent Prince, our Sovereign Lord Charles II. by the grace of God, England Scotland, France, and Ireland, King, his natural Lord, the fear of God in his heart not having, nor weighing the duty of his allegiance; but being moved and seduced by the instigation of the devil, the cordial love, and true, due, and natural obedience, which true and faithful subjects of our said Sovereign Lord the King, towards him our said Sovereign Lord the King, should, and of right ought to bear, wholly withdrawing, and with all his strength, intending the peace and common tranquillity in this kingdom of England, to disturb, and war and rebellion against our said Sovereign Lord the King, to stir up and move, and the government of our said Sovereign Lord the King, within this kingdom of England, to subvert, and him our said Sovereign Lord the King, from the title, honour, and regal name of the imperial crown of his kingdom of England to depose and deprive, and him our said Sovereign Lord the King to death and final destruction to bring and put, the 18th day of March, in the three and thirtieth year of the reign of our Sovereign Lord, Charles the Second, now King of England, and divers other days and times, as well before as afterward, in the parish of St. Mary Le Bow, in the

ward of Cheap, London, traitorously compassed, imagined and intended the death and final destruction of our said Sovereign Lord the King, and the ancient government of his kingdom of England, to change, alter, and wholly to subvert, and him our said Sovereign Lord the King, from the title, honour, and kingly name of his imperial crown of this kingdom of England, to depose and deprive, and war and rebellion against our said Sovereign Lord the King, to move and levy within this kingdom of England; and his said most wicked treasons, and traitorous compasses, imaginations and purposes aforesaid, to fulfil and perfect, he the said Anthony Earl of Shaftesbury, as a false traitor, with divers armed men, subjects of our said Sovereign Lord the King, then being, maliciously, traitorously and advisedly did provide and prepare to be aiding to him the said Earl of Shaftesbury, to fulfil and perfect his treasons aforesaid.

And his said wicked treasons, traitorous compasses, imaginations and purposes, the sooner to perfect, he the said Anthony Earl of Shaftesbury as a false traitor, with one John Booth, and other subjects of our said Lord the King, then and there traitorously assembled, met and consulted; and the same wicked treasons, and traitorous compasses, imaginations and purposes aforesaid, then and there to the said John Booth, and other persons, to the jury unknown, in the hearing of divers liege subjects of our Sovereign Lord the King, then and there present, openly, publicly, maliciously, traitorously, and advisedly did say and declare, and to persuade and induce the said John Booth to be aiding and assisting in his said treasons, compasses, imaginations, and purposes, he the said Anthony Earl of Shaftesbury, as a false traitor, maliciously, advisedly, and traitorously the said 18th day of March, in the three and thirtieth year of the reign of our said Sovereign Lord the King, at the parish and ward aforesaid, within the city of London aforesaid, falsely, advisedly, subtilely, maliciously, and traitorously said, asserted and declared, that in a short time the parliament was to sit at Oxford, and that he the said Anthony Earl of Shaftesbury had inspected the elections, and considered the inclinations and dispositions of the generality of the members of parliament elected; and that he the said Anthony Earl of Shaftesbury was satisfied that the parliament would insist upon three matters, (to wit) "The Bill of Exclusion against the Duke of York: the Abolishing the Act of Parliament of the thirty-fifth of Queen Elizabeth, and the passing of a New Bill for uniting Protestant Dissenters;" with divers other good and wholesome bills. To which he the said Anthony Earl of Shaftesbury was certain that the King's Majesty would refuse to give his royal assent; and therefore he the said Anthony Earl of Shaftesbury did expect that there would be a division between the King's Majesty and the parliament; and that many noble lords and worthy members of the lower house did concur in the same opinion, and they were resolved to insist on the passing of those bills: and if the King's Majesty refused, that they (meaning him the said Anthony Earl of Shaftesbury, and the said noble lords and worthy members) had provided strength to compel the King's Majesty to grant thereunto; and that for his part, he the said Anthony Earl of Shaftesbury had provided stout men to be commanded by Captain Wilkinson, (meaning one Henry Wilkin-

son, one of the subjects of our said now Sovereign Lord the King;) of which he the said Anthony Earl of Shaftesbury had agreed that the said John Booth should be one.

And further, the jurors aforesaid upon their oath do say, that the aforesaid Anthony Earl of Shaftesbury, his said wicked treasons, and traitorous imaginations, to fulfil, perfect, and bring to effect afterwards; to wit, the said 18th day of March, in the thirty-third year of his said now Majesty's reign, in the parish and ward aforesaid, within the city of London aforesaid, as a false traitor in the presence and hearing of divers liege people of our Sovereign Lord the King, then and there present, openly and publicly, falsely, maliciously, advisedly and traitorously said, asserted, published, and with a loud voice declared, that our said now Lord the King was a man of no faith, and that there was no trust in him; and that our said Lord the King deserved to be deposed, as well as Richard the Second, late King of England, deserved.

And further, the jurors aforesaid upon their oath do say, that the said Anthony Earl of Shaftesbury, his said wicked treasons, and traitorous imaginations aforesaid, to be fulfilled and perfected, and brought to effect the said 18th day of March, in the three and thirtieth year of his said now Majesty's reign, in the parish and ward aforesaid, in the city of London aforesaid, as a false traitor, in the presence and hearing of divers liege subjects of our said Lord the King then and there present, openly and publicly, falsely, maliciously, advisedly, and traitorously said, asserted, published, and with a loud voice declared, that he the said Anthony Earl of Shaftesbury would never desist, until he had brought this kingdom of England into a commonwealth without a king, and that the said Anthony Earl of Shaftesbury, and all those that him the said Anthony Earl of Shaftesbury would assist, (and he knew many that would assist him the said Anthony Earl of Shaftesbury) would make England a commonwealth as Holland was: and that he the said Anthony Earl of Shaftesbury, and other traitors unknown would live as in Holland, and that he our said Lord the King, and all his family, should be rooted out.

And further, the jurors aforesaid do say, that the said Anthony Earl of Shaftesbury, his said wicked treasons, and traitorous imaginations aforesaid, to be fulfilled, perfected, and brought to effect afterwards, the said 18th day of March, in the three and thirtieth year of his said now Majesty's reign, in the parish and ward aforesaid, in the city of London aforesaid, as a false traitor, in the presence and hearing of divers liege subjects of our said Sovereign Lord the King then and there present, openly, publicly, falsely, maliciously, advisedly, and traitorously said, asserted, published, and with a loud voice declared, that our now Sovereign Lord the King was a man of an unfaithful heart, and not worthy to be trusted, and not fit to rule and govern, being false, unjust, and cruel to his people; and if he would not be governed by his people, that they (meaning him the said Anthony Earl of Shaftesbury, and other traitors to the jurors unknown) our said Sovereign Lord the King would depose, against his allegiance and duty, and against the peace of our said Sovereign Lord the King, his crown and dignity, &c. and against the form of the statute in such case made and provided, &c.

Ld. Ch. Just. North.—I do not know whether you desire the witnesses should be examined apart, do you desire that, gentlemen?

Ld. Ch. Justice.—If you desire it gentlemen, they shall, for Mr. Sheriff hath nothing to do with it; but if you do desire it, you shall have the witnesses called one at a time, and all the rest shall be put out of the court.

Jury.—My Lord, it is our desire.

Ld. Ch. Justice.—We did deny it to Mr. Sheriff, because we are to keep men within their duty. Here it is not his duty to meddle with any thing of this nature.

Foreman.—My Lord, we desire we may have a list of their names and that they may be put apart, that they may not hear what one another say.

Sir Fr. Withens.—My Lord, there is one part I would open.

Ld. Ch. Justice.—There is no need for it all. You shall have their names told you as they are called.

Harrison, one of the jury.—My Lord, we pray we may have a list of their names.

Ld. Ch. Justice.—If you desire it, you may have it, but it will be no advantage, for you will hear them named, and you may write them down as they come in.

Godfrey.—We desire a list, for you told us the king's counsel had examined them, and knew who they were.

Ld. Ch. Justice.—I will tell you the court is to have their names indorsed, for they do not bring witnesses in secrecy, and I suppose they are indorsed here. It is want of experience that makes you ask this; you are told, they are indorsed here. Sir Samuel Barnardiston, you must have the indictment itself out with you, and all their names written upon the back of that indictment; but that you should desire to have the names of them in a roll beforehand, I do not know if there be any reason that you can assign for it.

Foreman.—One thing more I have to say, that we may see the warrant by which the Earl of Shaftesbury was committed, for there are some other questions depend upon it.

Ld. Ch. Justice.—That we cannot do, for the lieutenant of the tower hath that warrant, which he keeps for his indemnity; we cannot demand it from him upon any terms, any thing that you desire of us, let us know, and what is reasonable, and within our power, we will grant; and for other requests of yours, we tell the reason why we cannot grant them.

Papillon.—My Lord, if you please, I will only acquaint you, that the gentlemen of the jury seem to be of opinion, that your Lordship gives them leave to examine the witnesses; and the jury, because they would not put the court to too much trouble, desire, that the witnesses should come one after another, and give their information, and that then the jury should withdraw, to consider what proper questions to ask them, and come down again.

Ld. Ch. Justice.—You shall do so; gentlemen, look you, we did at the request of the last jury use the same method; after they had heard what the witnesses gave in evidence, they came and desired leave to ask them some questions, which was granted, and

they were all called one by one, and they examined them; you shall do so gentlemen.

Attor. Gen.—I was informed this morning, there were several questions to be asked of several witnesses, to direct the grand jury how to demean themselves.

Ld. Ch. Justice.—Mr. Attorney, the request is reasonable enough.

Harrison.—We desire they may be examined one by one.

Ld. Ch. Just. North.—I suppose you do not stand upon it for these witnesses, they are clerks of the council, that only prove a paper which it seems was found in the Earl of Shaftesbury's house: if you will they may go out and be called in again.

Harrison.—We humbly beg it.

Godfrey.—I was foreman of the jury at Fitz-Harris's trial, and it was complained he had hard measure from some Irish witnesses, and that it was severe that they should be examined in troops; it hath troubled me since that I did not put them out and examine them apart.

Ld. Ch. Justice.—Look ye, gentlemen, you that are witnesses for the king, you must all go out, and come in as you are called, one by one. Now it appears this was the paper taken in my Lord Shaftesbury's closet.

The following paper was then read:—

"We the knights, &c. finding to the grief of our hearts, the popish priests and Jesuits, with the papists and their adherents and abettors have for several years past pursued a most pernicious and hellish plot, to root out the true protestant religion as a pestilent heresy, to take away the life of our gracious king, to subvert our laws and liberties, and to set up arbitrary power and popery.

"And it being notorious that they have been highly encouraged by the countenance and protection given and procured for them by J. D. of Y. and by their expectations of his succeeding to the crown, and that through crafty popish councils his designs have so far prevailed, that he hath created many and great dependants upon him by his bestowing offices and preferments both in church and state.

"It appearing also to us, that by his influence, mercenary forces have been levied and kept on foot for his secret designs contrary to our laws; the officers thereof having been named and appointed by him, to the apparent hazard of his Majesty's person, our religion and government, if the danger had not been timely foreseen by several parliaments, and part of those forces with great difficulty, caused by them to be disbanded at the kingdom's great expence: and it being evident, that notwithstanding all the continual endeavours of the parliament to deliver his Majesty from the councils, and out of the power of the said D. yet his interest in the ministry of state, and others have been so prevalent, that parliaments have been unreasonably prorogued and dissolved when they have been in hot pursuit of the popish conspiracies, and ill ministers of state their assistants.

"And that the said D. in order to reduce all into his own power hath procured the garrisons, the army and ammunition, and all in the power of the seas and soldiery, and lands belonging to these three

kingdoms, to be put into the hands of his party and their adherents, even in opposition to the advice and order of the last parliament.

"And as we considering with heavy hearts how greatly the strength, reputation and treasure of the kingdom both at sea and land is wasted and consumed, and lost by the intricate expensive management of these wicked destructive designs; and finding the same councils after exemplary justice upon some of the conspirators, to be still pursued with the utmost devilish malice, and desire of revenge; whereby his Majesty is in continual hazard of being murdered to make way for the said D's advancement to the crown, and the whole kingdom in such case is destitute of all security of their religion, laws, estates, and liberty, sad experience in the case, Queen Mary having proved the wisest laws to be of little force to keep out popery and tyranny under a popish prince.

"We have therefore endeavoured in a parliamentary way by a bill for the purpose, to bar and exclude the said Duke from the succession to the crown, and to banish him for ever out of these kingdoms of England and Ireland. But the first means of the king and kingdom's safety being utterly rejected, and we left almost in despair of obtaining any real and effectual security, and knowing ourselves to be entrusted to advise and act for the preservation of his Majesty and the kingdom, and being persuaded in our consciences that the dangers aforesaid are so eminent and pressing, that there ought to be no delay of the best means that are in our power to secure the kingdom against them. We have thought fit to propose to all true protestants, an union amongst themselves by solemn and sacred promise of mutual defence and assistance in the preservation of the true protestant religion, his Majesty's person and royal state, and our laws, liberties and properties, and we hold it our bounden duty to join ourselves for the same intent in a declaration of our united affections and resolutions in the form ensuing.

"I A. B. do in the presence of God, solemnly promise, vow, and protest, to maintain and defend to the utmost of my power, with my person and estate, the true protestant religion, against popery and all popish superstition, idolatry, or innovation, and all those who do or shall endeavour to spread or advance it within this kingdom.

"I will also, as far as in me lies, maintain and defend his Majesty's royal person and estate; as also the power and privilege of parliaments, the lawful rights and liberties of the subject against all encroachments and usurpation of arbitrary power whatsoever, and endeavour entirely to disband all such mercenary forces as we have reason to believe were raised to advance it, and are still kept up in and about the city of London, to the great amazement and terror of all the good people of the land.

"Moreover J. D. of Y. having publicly professed and owned the popish religion, and notoriously given life and birth to the damnable hellish plots of the papists against his Majesty's person, the protestant religion, and the government of this kingdom; I will never consent that the said J. D. of Y. or any other, who is, or hath been a papist, or any ways adhered to the papists in their wicked designs, be admitted to the succession of the crown of England; but by all

lawful means and by force of arms, if need so require, according to my abilities, will oppose him, and endeavour to subdue, expel, and destroy him, if he come into England, or the dominions thereof, and seek by force to set up his pretended title, and all such as shall adhere unto him, or raise any war, tumult, or sedition for him, or by his command, as public enemies of our laws, religion and country.

“To this end we and every one of us, whose hands are here underwritten, do most willingly bind ourselves and every one of us unto the other jointly and severally, in the bond of one firm and loyal society or association, and do promise and vow before God, that with our joint and particular forces we will oppose, and pursue unto destruction all such as upon any title whatsoever shall oppose the just and righteous ends of this association, and maintain, protect and defend all such as shall enter into it in the just performance of the true intent and meaning of it. And lest this just and pious work should be any ways obstructed or hindered for want of discipline and conduct, or any evil-minded persons under pretence of raising forces for the service of this association, should attempt or commit disorders; we will follow such orders as we shall from time to time receive from this present parliament, whilst it shall be sitting, or the major part of the members of both houses subscribing this association, when it shall be prorogued or dissolved: and obey such officers as shall by them be set over us in the several counties, cities and boroughs, until the next meeting of this or another parliament; and will then shew the same obedience and submission unto it, and those who shall be of it.

“Neither will we for any respect of persons or causes, or for fear, or reward, separate ourselves from this association, or fail in the prosecution thereof during our lives, upon pain of being by the rest of us prosecuted, and suppressed as perjured persons, and public enemies to God, the King, and our native country.

“To which pains and punishments we do voluntarily submit ourselves, and every one of us without benefit of any colour or pretence to excuse us.

“In witness of all which promises to be inviolably kept, we do to this present writing put our hands and seals, and shall be most ready to accept and admit any others hereafter into this society and association.”

Sir Fr. Withens.—This paper is very plausibly penned in the beginning, and goes a great way so, but in the last clause but one, there they come to perfect levying of war; for they positively say, they will obey such officers as either the parliament or the major part of them, or after the parliament is dissolved, the major part of those that shall subscribe this paper shall appoint, they will obey all such officers.

Foreman.—Pray what date is this paper of?

Sir Fr. Withens.—It was after the bill for the exclusion of the Duke of York, for it says, that way failing, they would do it by force.

Foreman.—There is no hand to it all?

Sir Fr. Withens.—No, none at all. One thing I had forgotten, that they would join to destroy the mercenary forces about London, which is downright levying war against the king and his guards.

Mr. Sanders.—The design of it is pretended to oppose popery and arbitrary power, and destroy the papists; but that doth not

seem so much in itself ; but when you have heard the evidence you will hear who were the papists that were to be destroyed by this army.

John Booth, Edward Surberville, John Smith, Brian Haines, and other witnesses, were then examined in open court before the grand jury. The jury however behaved with great spirit, though often interrupted by the Chief Justice.

Ld. Ch. Justice.—The king's council declare they will call no more witnesses, for they think they have called enough already, and there are several of them that do swear words that are treasonable in themselves, if you desire to ask any of the witnesses any thing, you shall have them all called one by one.

Foreman.—My Lord, we will walk up again, and consider what questions to ask, and come again presently.

Papillon.—It seems they will call no more witnesses than these.

Ld. Ch. Justice.—Not against the Earl of Shaftesbury, being you are charged only with that.

Papillon.—It is so, my Lord, but we pray we may be satisfied upon the statute the indictment is grounded, because we may hear it read before we go up, as your Lordship speaks of two different statutes, the 25th of Edward, and you mention the statute of the 13th of this king ; your Lordship in your discourse to the jury, mentioned them both, so we pray your Lordship to acquaint us upon what statute it is grounded, whether upon both or one of them.

Ld. Ch. Justice.—Look ye, gentlemen, this is grounded upon the statute of this king, though there is enough to find an indictment of treason upon the statute of the 25th of Edward III. That which is treason within the statute of the twenty-fifth of Edward III., is treason within this statute, so this is the more copious statute ; for as I told you before, this statute has enlarged that of Edward III. in a great many particulars ; and therefore, look you, gentlemen, always consider this, when one statute contains the matter of another, and enlarges it, the indictment is always upon the last statute, that being the more copious statute ; but you are to consider both.

Ld. Ch. Just. North.—The indictment is *contra formam statute*, and it being *contra formam statut*^s, it may be understood, *statutorum* or *statuti*, so that all statutes that may be the foundation of this indictment you may go upon.

Jury.—We desire to know whether any of these witnesses stand indicted or no.

Ld. Ch. Justice.—Look ye, gentlemen, do not talk of this, but consider with yourselves, an examination of proofs concerning the credibility of the witnesses is not properly before you at this time ; for I must tell you, and inform you as to that, you are not to examine properly here concerning the credibility of the witnesses, that is not to be proved or controverted here before you, that is matter upon a trial by the petty jury, for there the king will be heard to defend the credit of his witnesses, if there be any thing that can be objected against them ; it is proper for the prisoner to do

that, you are only to see whether the statute be satisfied, in having matter that is treasonable, and having it witnessed by two men, by two witnesses, who are intended *prima facie* credible, unless you of your own knowledge know the contrary; for otherwise, you must consider what a disadvantage this would be in all such cases, if the credibility of the witnesses should be examined before the grand jury where the king is not present, nor in a possibility of defending the credit of his witnesses; the prisoner or the party indicted is not here: that is a proper objection when he comes upon his trial; for all men are thought credible till there are objections against them, and till their credit comes to be examined on one side and the other.

Papillon.—My Lord, if your Lordship thinks good, I will beg this, I desire your Lordship's pardon, whether your Lordship doth not think that we are within the compass of our own understanding and consciences to give our judgment?

Ld. Ch. Justice.—Your own understandings and consciences, yes; but look ye, gentlemen—

Papillon.—If we are not left to consider the credibility of the witnesses: we cannot satisfy our consciences.

Ld. Ch. Justice.—Look ye, gentlemen, you are to go according to the evidence of the witnesses; you are to consider the case according to the things alleged and proved, unless you know any thing yourselves; but if any of you know any thing of your own knowledge, that you ought to take into consideration, most undoubtedly.

Jury.—Very well, my Lord.

Ld. Ch. Justice.—The grand jury are to hear nothing, but the evidence against the prisoner; therefore it is impossible for you to enter into proofs or expect any here, concerning the credit of the witnesses, and to do justice at that rate.

The jury withdrew, and the court adjourned till three o'clock.

On the meeting of the court, other witnesses were examined, and at length the Lord Chief Justice spoke as follows:—

“Look ye, gentlemen, now you have asked these questions, you had best go and consider what evidence is delivered, and weigh well all those things that have been said to you, and you must consider your duty; you are to enquire here, whether it be fitting for the king to call Lord Shaftesbury to question upon this account of treasonable words.”

Papillon.—My Lord we desire before we go, that either the law may be read, or we may have the statute-book up with us.

Ld. Ch. Justice.—The statute-book was never denied, but you shall have the law read here; first the statute of the twenty-fifth of Edward the III., and then this last statute.

Ld. Ch. Just. North.—I would say one thing, because I observed that some of you asked the question, whether the parliament did not debate about an association; whether it related to that paper or no, I am not certain: I hope you will consider that paper well, for my part I must needs say for myself, I heard of it, but I never heard it read before, and never heard the contents of it, but it seems to me to shew what those officers were to do, for the ends of this associa-

tion, and one of those ends as I remember (gentlemen, I refer you to the paper, and hope you will consider it, you are men of understanding) I thought that one of those ends was to destroy the mercenary forces in and about the cities of London and Westminster, and that the government was to be by the major part of the members of parliament, in the sitting of parliament, not with the king, but the major part of the members of parliament. Gentlemen, I may mistake, for I profess I speak only out of memory ; but it seems to me to be of great consequence, and there is great matter to be presumed upon it, it being found under lock and key in his study. But I suppose Lord Shaftesbury may give an account of it, but there is great presumption upon it, and it doth not import to be an association by act of parliament.

Attor. Gen.—When the parliament was prorogued or dissolved, then the major part of the members in each county engage themselves to follow their command and obey their order.

Ld. Ch. Just. North.—Gentlemen, I hope you will consider your oaths, and give all things their due weight.

Ld. Ch. Justice.—Will you have the statute read ?

Jury.—We will read it above.

The jury withdrew to consider the evidence, and returned the bill *ignoramus*, upon which the people fell a hallooing and shouting.

ARCHIBALD EARL OF ARGYLE,

FOR HIGH TREASON, AT EDINBURGH, DECEMBER 12, 1681.

A TEST having been established in Scotland, to be taken by all persons on their admission to any office or place in the government, the Earl of Argyle took it as a privy-counsellor, November the 3rd, having first declared his sense, and given this explanation of it, (*viz.*) “ That he had considered the test, and was very desirous to give obedience as far as he could. He was confident the parliament never intended to impose contradictory oaths ; therefore he thought no man could explain it but for himself, and accordingly he took it, as far as it was consistent with itself, and the protestant religion. But he meant not to bind up himself in his station, and in a lawful way to wish and endeavour any alteration, he thought to the advantage of Church and State, or repugnant to the protestant religion, or his loyalty. And this I understand as a part of my oath.”

The Earl coming the next day, to take the test again, as one of the commissioners of the treasury, produced a paper, containing the explanation, with which he had taken the test the day before; and refusing to take it simply, without that explanation, he was committed to the Castle of Edinburgh, and ordered to be prosecuted, as the author of that paper, by his Majesty's advocate. An indictment was preferred against him; setting forth,

"That notwithstanding his Majesty had bestowed on the said Earl a vast estate, which was forfeited to his Majesty by the Earl's father; and also had pardoned and remitted to the present Earl, the crimes of leasing-making, and misconstruing his Majesty's and the parliament's proceedings, for which he had been condemned to die; raised him to the dignity of an Earl, &c. yet he had not only refused to take the test in the genuine sense, but had declared against and defamed the act that required the taking of it; and to corrupt others, had drawn up his sense of it in a libel, and dispersed copies thereof, in order to make ill impressions on the people. That by his declaring in that libel, 'He had considered the test, and was desirous to give obedience, as far as he could; he insinuated, he was not able to give full obedience,' by his saying, 'he was confident the parliament never intended to impose contradictory oaths,' he would induce the people to believe the parliament had been so impious and ridiculous as to impose contradictory oaths. That by affirming, 'Every man must explain it for himself, and take it in his own sense,' all oaths and laws were rendered useless. And by his saying, 'He took the test so far only, as it was consistent with itself, and the protestant religion,' he maliciously intimated to the people, that the oath was inconsistent with itself and the protestant religion; thereby misrepresenting his Majesty and the parliament, in the highest degree. And by declaring, 'that he did not mean, by taking the said test, to bind up himself from wishing and endeavouring any alteration in a lawful way, that he should think fit, for advancing of church and state;' he did, by his example, invite others to think themselves loosed from that obligation, and teach them to make any alteration either in church or state, as they should think fit. And, that by his conclusion, (viz.) 'this I understand as a part of my oath;' he invaded the royal legislative power, making an act of parliament to himself; for he who could make any part, might make the whole."

The Earl being brought to trial before the Earl of Queensbury, Lord Justice-General, and the Lords Nairn, Collingtoun, Forret, Newtown, and Kirkhouse, Lords of the Justiciary, on the 12th of December, Sir George Lockhart, his advocate, entered upon his defence, and said, The words laid in the indictment, being offered before a public judicature, only to explain the Earl's meaning, could not be interpreted a leasing-making with

any seditious intent ; or infer any crime, although he was mistaken in his opinion concerning the act of parliament ; whether his scruples were just, or groundless, they cast no reflection on the act of parliament. That, in the explication, he did no where directly charge the oath and test with inconsistency and contradiction ; this was made out only by implication and inference, and violently wresting his words. That his asserting, The parliament never intended to impose contradictory oaths, was an high vindication of the honour and justice of the parliament. And these words, He was ready to give obedience as far as he could, did not import, the parliament had imposed an unlawful oath ; but only shewed the Earl's doubtfulness and scrupulosity in the matter. As to those words, said he, I think nobody can explain it but for himself : they imported no more than, that every man ought to take it in that sense he apprehended to be the genuine sense of the parliament. And as to his saying, He takes it, as far as it is consistent with itself, and the protestant religion, he neither intended nor expressed more than, that he took it as a true protestant. As to that expression, He does not bind up himself in a lawful way, to endeavour any alteration he thinks for the advantage of Church or State, he thought it could never be inferred from the oath, but that persons might, notwithstanding, concur in their stations, in a lawful way, in any law, to the advantage of Church and State ; and, it would be contrary to his allegiance to take the oath upon other terms. And lastly, by these words, This I understand as a part of my oath ; he could not be said to assume a legislative power. His plain meaning was, that his sense and explication was a part of his oath, not of the law which imposed the oath. And, upon the whole, he infers, that the said explication cannot import all, or any of the crimes libelled.

His Majesty's Advocate, in answer to this plea, said, That to secure the Government against the rebellious principles of the last age, and the unjust pretext of this ; and to secure the protestant religion, and the crown, the King had called a parliament, wherein this excellent test was made, as a security against the old juggling principles of the Covenant ; wherein they still swore to serve the King in their own way. But the Earl, by his paper

had discovered a way to evade the test, so as no man should be bound by it. For, if a man should swear to obey only as far as he could, and as far as he conceived it consistent with the protestant religion, and with itself, and reserved to himself a power of making any alteration he should think consistent with his loyalty, what man could be bound? The Government must be as insecure as before the act was made. The taker was no farther obliged than he pleased; but every man's conscience (which in this age included humour and interest) must be the rule of the taker's obedience.

It was the opinion of all lawyers, and divines, that every oath was to be taken according to the intention of him to whom it was made; nor was there any danger to a tender conscience, in this case, since there was no force put upon the Earl. He took it to qualify him for a place; and might have abstained.

The Earl was plainly guilty of contravening the act 10 James VI., which prohibited the writing of any thing whereby his Majesty's government might be reproached, or his proceedings misconstrued, so as to create a dislike between the King and his people. For, by saying, He took the oath only as far as it was consistent with itself, and the protestant religion; it must necessarily be concluded, that in several instances, it was inconsistent with itself, and the protestant religion; and nothing could be a greater reproach to the parliament, or a greater ground of mistrust among the people. And, whereas, it was said, these were only inferences; it was answered, There were some offences, which the law could only forbid in general; and there were many inferences as strong and natural, and which reproached more effectually than the plainest defamations in the world. Direct reproaches had not wounded the King so deeply, as the many seditious insinuations of this age and the last.

Sir John Dalrymple, another of the Earl's advocates, replied, Where a man was bound to take an oath, if he gave in an explication of the sense which he in his private judgment apprehended to be the genuine meaning; if his private sense did not agree with the legislator's sense, then he that had power to administer the oath, ought to reject him, as not fulfilling the intent of the law. But the party could incur no other penalty, than what was

imposed on the refuser; which, in this case, was no more than the loss of his office. It was admitted, that assuming a power to make laws, was treasonable; but though the Earl declared his explanation to be part of his oath, he never meant to impose it as part of the law.

As to those words, I do not mean to bind up myself in my station, and in a lawful way to wish and endeavour any alteration, &c.—this clause was so far from being treasonable, that every good subject ought to say as much. The words, “lawful way,” shewed, that by alterations could not be understood treasonable alterations; but such alterations as the frailty of human affairs and constitutions, and the vicissitude of things constantly require in the most complete forms of government.

It was a rational prospect: for, if every thing were done, at present, that could be done for the security of religion, or government, there might occur cases hereafter that might require new remedies, and alteration.

The King's advocate replying again to the Earl's counsel, said, He was not to be punished for refusing, but for defaming the oath. If he had simply refused it, the government had been in no hazard. But he would retain his places, and take the test in such words as gave the government no security. It was his defaming the law, as ridiculous and inconsistent with the protestant religion, and creating misunderstandings between the King and his people, that put the Earl in a worse condition than he that simply refused. Had the Earl only reserved a power of proposing to his Majesty any alterations, he might have done this very innocently; but giving himself that general liberty, of wishing and endeavouring any alteration he should think fit, was the crime. Nor, would the word lawful make the matter better; for the greatest rebel in Scotland would bind himself to a lawful obedience, provided he might be judge of the lawfulness. The covenant itself had not only the words above-cited; but they called the world to be witnesses of their loyalty and sincerity.

The court sustaining the libel, or indictment, as to the treason, the jury were sworn, consisting of the Marquis of Montrose, (foreman,) the Earls of Middleton, Airlie, Perth, Dalhousie, Roxburgh, Dumfries, Linlithgow; the Lords Lindoors, Sinclair, Bruntisland; and the

Lairds of Goosford, Claverhouse, Balnamoon, and Park-Gordon.

The witnesses being called, deposed, that they saw the Earl give in the abovesaid explanation of the test in writing, which he refused to subscribe. The assize, or jury, then withdrew, to consider of the evidence, returned soon after, and unanimously found the Earl *Guilty* of the crimes of treason, leasing-making, and leasing-telling.

The sentence, however, being deferred till his Majesty's pleasure was known; the Earl made his escape in the mean time, and went up to London *incognito*; and from thence into Holland; from whence returning to Scotland in a hostile manner, in the next reign, he was taken in the field in actual rebellion, and beheaded, the lords of the justiciary having passed sentence of high-treason on him soon after he fled; viz. on December 23, 1681. He was executed, in pursuance of that sentence, June 30, 1685, at Edinburgh.

WILLIAM VISCOUNT STAFFORD,

FOR HIGH TREASON, THE 30th OF NOVEMBER, 1680.

THE articles were entitled, articles of impeachment, of high treason, and other crimes and offences, against William Earl of Powis, William Viscount Stafford, and Henry Lord Arundel of Wardour, William Lord Petre, and John Lord Bellasis, now prisoners in the Tower of London.

1. The first article charges, that there had been for many years a traitorous and execrable conspiracy carried on by the papists, to subvert the ancient government and laws of this kingdom, and to suppress the true religion therein established.

2. That the said five lords, together with Philip Howard, commonly called Cardinal of Norfolk, Thomas White, alias Whitebread, provincial of the Jesuits, and divers other Jesuits, priests, friars, and other persons, had traitorously agreed, conspired, and resolved to depose and murder his present Majesty, and by malicious and advised speaking, writing, and otherwise, had declared such their purposes and intentions: that they had also conspired and contrived to subject this kingdom to the Pope, and share among themselves the estates of his Majesty's protestant subjects: to restore religious houses and the lands belonging to them, and to erect others, and to deprive all protestant bishops and other ecclesiastical persons of their offices and preferments.

3. That the said conspirators, and their accomplices had held several consultations concerning the instruments they should use to murder his Majesty, and had resolved to effect it by poisoning, shooting, stabbing or similar means, and actually hired several persons to go to Windsor, and other places where his Majesty resided, to murder him; and the assassins had accepted the rewards offered them, undertaken to do the deed, and gone to those places for that purpose.

4. That they had procured forces to be raised, and made application to the Pope, his cardinals, nuncios, and others, to obtain supplies of men, money, arms, and ammunition, to levy war, and raise a rebellion within this kingdom, and to seize his Majesty's navy and forts; whereupon the calamities of war, murders of innocent subjects, men, women, and children, burnings, rapines, devastations, and other dreadful miseries must have ensued.

5. That the conspirators had procured and accepted commissions, granted by or under the Pope, or other usurped authority, to raise men, money, arms, and other things necessary for their wicked and traitorous designs, particularly, a commission for the said Henry Lord Arundel of Wardour, to be lord chancellor; a commission to the said William Earl of Powis, to be lord treasurer; a commission to the said John Lord Bellasis to be general; another to the said William Lord Petre, to be lieutenant-general; and a power to the said William Viscount Stafford to be pay-master of the army intended to be raised.

6. In order to conceal the discovery of their plots and conspiracies, and secure themselves from justice, the said conspirators had used many wicked and diabolical arts, causing their priests to administer oaths of secrecy together with the sacrament, and upon confessions, to give absolutions on concealing the said conspiracy. That they caused Sir Edmundbury Godfrey, who had taken several examinations relating to the said conspiracy, to be murdered, giving out that he was alive, and privately married: and after his body was found, maliciously reported that he murdered himself: which murder was committed with design to stifle and suppress the evidence, and to deter all other magistrates from making further enquiries into their plots and conspiracies.

And lastly, that they had contrived, by many false suggestions, to lay the imputation and guilt of the aforesaid horrid and detestable crimes upon the protestants, that thereby they might escape the punishments they justly deserved; expose the protestants to great scandal, and subject them to persecution and oppression in all countries where the Romish religion was professed.

Of all which treasons and crimes, the knights, citizens, and burgesses in parliament assembled, did impeach the said lords, and every of them, in the name of all the commons of England, praying they might be put to answer the premises, and such trials and judgments might be had thereupon, as was agreeable to law and justice, and the course of parliaments.

To which the Lord Stafford answered generally, that he was not Guilty, and the commons replied, and joined issue thereupon.

On the 30th of November, the lords being come down from their house to the court erected in Westminster-hall; the commons seated on each side of them, and the managers in the rooms appointed for them; Lord Viscount Stafford was brought to the bar.

The managers then called their witnesses; first one Smith, who gave a general account of the plot, deposed, that he had been a popish priest, but was now turned protestant, that he had lived in the college of the English Jesuits at Rome five years; and the Jesuits in their sermons and private discourses maintained, that the King of England was an heretic, and that whoever would take him out of the way, would do a meritorious act; that he understood at Rome, there was a plot going forward to murder the King, and when he came to England he observed there was the same design here; and that it was common talk all over the country.

Dugdale deposed that for fifteen or sixteen years past, there had been a design to introduce popery by force of arms upon the King's death; but he heard nothing till of late of killing the King: that he had been at several consultations for taking off the King, and there had been a general collection of money for carrying on the design; he had received 500l. at once, and paid it to Ewers, the Jesuit, for arms received from beyond sea: that the Lord Aston and Sir James Symonds, were ordered to dispose of arms, which came from beyond sea, to the value of 30,000l.; and he had heard the French King, would furnish a body of troops and other supplies: that the Jesuits letters went through the deponent's hands, for two years, and he received one, the 14th of October, 1678, dated the 12th, which said, this night Godfrey is dispatched; and the reason he was taken off, Ewers told the deponent, was, because Colcman sent the Duke of York word he had discovered the whole plot to him: that the deponent himself contributed 400l. towards the plot, and promised a hundred more: that Lord Stafford was present at several consultations, where the introduction of popery, buying arms, and the king's death, were under consideration; and there was an indulgence published in the year 1678, that whoever should be active in these designs, should have a pardon for all their sins: that when the king was killed, arms were to be put into the hands of certain persons, who were to rise at an hour's warning, and cut the protestants throats, and if any escaped, the army was to destroy them; adding, that Whitebread the Jesuit wrote Ewers a letter by the common post, wherein he desired him, in words at length, without a cypher, to provide stout fellows to kill the King.

Oates deposed, that he was reconciled to the church of Rome on Ash Wednesday, 1676, and admitted then a novice of the order of the Jesuits: that in April 1677, he was sent to Spain, where the king's death was talked of, for that he was an enemy to God and man. In November following the deponent was ordered to England, where he understood Grove had been disappointed in his design of killing the King; but had great hopes of effecting it the next year: that in December 1677, the deponent was sent to St. Omers, where they received an account of an attempt that Pickering had made an attempt upon the king's life, which failed by the flint of his pistol

being loose : then he gave evidence of the treasonable consultation at the White Horse, in April, 1678, as he had done at the Jesuits' trials, and of Sir George Wakeman's being employed to poison the king ; and said, Strange told him that London was fired, and that the incendiaries who were apprehended, were released by the Duke of York's order.

Jennison deposed that Ireland would have employed him to murder the King ; and that he (the deponent) recommended four stout Irishmen to him in August, 1679, for that service, whose names Ireland took down.

The managers having given evidence of the plot in general, the witnesses were directed to testify what they knew against Lord Stafford in particular.

Dugdale now deposed, that about the latter end of August, or the beginning of September, 1678, he was admitted to a consultation at the Lord Aston's house, where Lord Stafford, Lord Aston, and several more, came to a resolution, from the intelligence they had received from beyond sea : that the speediest way to introduce their religion was, to kill the King ; to which resolution the Lord Stafford consented : that soon after, the Lord Stafford sent for the deponent into his chamber, and promised him 500*l.*, if he would be concerned in murdering the King : he said the services of his family had not been rewarded, which was reason sufficient for his enmity to the King, if there was nothing of religion in the case. And he remembered particularly, that the day Lord Stafford offered him the 500*l.*, was on the 20th, or 21st of September, 1678.

Oates deposed, that in June 1678, Lord Stafford received a commission to be paymaster-general of the army, at Fenwick's chamber in Drury-lane.

Turberville deposed, That in the year 1675, his brother, being a benedictine monk, recommended him to Lord Stafford at Paris, who was then lame of the gout : and that his lordship proposed to him his being concerned in the murder of the King, who was (he said) an heretic, and a rebel to God Almighty ; ordered the deponent to go to Dieppe, and told him he should go with him to England. But his lordship wrote the deponent word at Dieppe, he should go to England by way of Calais, and ordered him to wait on his lordship at London ; but he never went near Lord Stafford, not being willing to be concerned in the matter. That it was at his lordship's house at Paris, that he proposed killing the King ; the deponent was at his house there, several times, within the space of a fortnight. The house was at the corner of a street, which faced Luxemburgh-house, and the Prince of Conde lodged in the same street.

Lord Stafford proceeding in his defence, called several witnesses, who deposed, That he was at the Marquis of Worcester's, at Badminton, in August 1678, when Dugdale swore he was at Tixall. And Thomas Sawyer deposed, that Dugdale was forced to leave Lord Aston's service, on account of his debts ; and that being taken up by the watch, in December 1678, he desired the parson of the town to prevail with Lord

Aston to own him for his servant; for he should be undone, (he said,) if he went to jail; but Lord Aston would not own him. And Dugdale swore thereupon, that he would be revenged on the Lord Aston; which was but two or three days before he became an evidence against Lord Aston, and the rest of the popish lords.

The minister of Tixall deposed, That he begged of Lord Aston to own Dugdale for his servant, to prevent his being carried to jail; but his Lordship answered, he would have nothing to do with him.

Sir Waller Bagott, one of the justices of peace, before whom Dugdale was brought by the watch, deposed, That he waited on the Lord Aston, to know if Dugdale was his servant; but he would not own him. Whereupon the deponent took Dugdale to Stafford with him, where there was a meeting of justices, and they tendered him the oaths of supremacy and allegiance, which he took; and examining if he knew any thing of the plot, he denied he had any knowledge of it. Mr. Kinnersley, and Sir Thomas Whitgrave, two more of the justices of peace, deposed to the same effect.

The minister of Tixall further deposed, That whereas Dugdale had sworn he received a letter, concerning the death of Sir Edmond Godfrey, dated the 12th of October, and communicated the said letter to the deponent, and Mr. Sambridge, the Tuesday following; he, the deponent, averred, that he never heard of Godfrey's death, either from Dugdale, or any other person, until it was publicly known. And Mr. Sambridge deposed to the same effect.

Robinson and Murrel deposed, That Dugdale would have suborned them to have been witnesses against several gentlemen, to prove their being in the plot; and particularly against Lord Stafford.

Robinson and Holt also deposed, That Dugdale would have suborned them to be witnesses.

One of Lord Stafford's servants deposed, That he was with him all the time he resided at Paris, and that his lordship was never lame, as Turberville had deposed; neither did he ever hear that Turberville was at his lordship's house at Paris.

Weyborne; deposed, That Lord Stafford came over from France, by the way of Dieppe, in January 1675, and not by Calais, as Turberville had sworn.

Several witnesses also deposed, That Turberville solemnly protested he knew nothing of the plot.

Then his lordship demanded of Oates, whether he, when he was a minister of the Church of England, did really turn papist, or did but pretend to turn? To which Oates answered, He did only pretend, and was not really one.

His lordship also desired that Oates might produce some of the letters he pretended to have received from his lordship, or some notes, or abstracts, he had taken from them; but Oates answered, he had not kept any of those letters, neither had he taken any notes out of them, lest they should endanger his life.

His lordship observed, That Oates could not be deemed a credible

witness, having acknowledged his hypocrisy and dissimulation with God and man.

That Oates also was so poor and necessitous, that he begged for sixpence, suggesting that he became an evidence to save himself from starving. To which Oates replied, He had not received two-pence since he made the discovery. Whereupon his lordship observed, that Oates had sworn at another trial, that he had been seven-hundred pounds out of pocket; which could not easily be, if he had received nothing. Oates answered, A noble peer had made him a present of an hundred pounds; he sold his Narrative of the Plot for another hundred pounds; he had also received an hundred pounds for taking of Jesuits, and fifty pounds more he had received for other copies; all which and more he had spent in the service, in promoting the belief of the plot.

His lordship observed also, That Dugdale was in the bailiffs' hands when he became an evidence; and that he probably did it to obtain his liberty, and entitle himself to the reward that was offered to discoverers.

His lordship also again insisted, That Oates, who had dissembled with God Almighty to such a degree, as to take the Sacrament after the manner of the church of Rome, which their Lordships and the House of Commons had declared to be gross idolatry, could never be looked upon as a good witness; he appealed to their lordships, if one, who pretended to abhor his own religion, and had engaged to such an height, in a way which his conscience told him was idolatrous, was not a perjured fellow, and incapable of being a witness. He could be no Christian, but a devil and a witness for the devil. Had he been a penitent, they should have discovered it, by a pious, sober, and peaceful behaviour; and it was but last night, when he abused the lieutenant of the Tower, and called him rascal, which the lieutenant attested to be true.

The trial having continued six days, their lordships' votes were taken by the Lord High Steward on the seventh, when his lordship declared, that thirty-one of the lords thought the prisoner Not Guilty, and fifty-five had found him *Guilty*. The lieutenant of the Tower being commanded to bring his prisoner to the bar, the Lord High Steward acquainted him that their lordships had found him guilty of the treasons of which he was impeached. After which, the lords adjourning to their house, and the commons withdrawing to theirs, the speaker of the commons resumed the chair, and with the whole body of the house of commons went up to the lords' bar, and demanded judgment against the Lord Viscount Stafford.

The judgment was:—

“ You go to the place from whence you came; from thence you must be drawn upon a hurdle to the place of execution: when you come there, you must be hanged up by the neck, but not till

you are dead; for you must be cut down alive, your privy-members must be cut off, and your bowels ripped up before your face, and thrown into the fire. Then your head must be severed from your body, and your body divided into four quarters; and those must be at the disposal of the king. And God Almighty be merciful to your soul."

His Majesty being pleased to remit all the punishment but the beheading, writs were issued out of Chancery, to the lieutenant of the Tower, and the sheriffs of London and Middlesex, for the execution of his lordship on Tower-hill, on December 29, 1680.

When the hour appointed for his death drew near, he expected, with some impatience, the arrival of the Lieutenant, telling his friends that were about him, he ought not to hasten his own death, yet he thought the time long till they came for him. A gentleman then with him in his chamber, put him in mind that it was a cold day, and that his Lordship would do well to put on a cloak or coat to keep him warm; he answered, he would; for, said he, I may perhaps, shake for cold, but I trust in God, never for fear. After some time spent in spiritual discourses, at length about ten o'clock, word was brought him, that the Lieutenant waited for him below, upon which he sweetly saluted his friends, bidding them not grieve for him, for that this was the happiest day of all his life; he then immediately went down and walked along by the lieutenant's chair, (who had the gout) through a lane of soldiers, to the bars without the Tower, where the lieutenant delivered him to the sheriffs, and they from thence guarded him to the scaffold erected on Tower-hill. All the way as he passed, several thousands of people crowded to see him; many civilly saluted him, and there were, few amongst the vast crowd, whose hearts were not touched and mollified with compassion for him. Having mounted the scaffold, there appeared in his countenance such unusual vivacity, such a cheerfulness, such a confidence, such a candour, as if the innocence of his soul had shone through his body. Nothing of that mortal paleness, nothing of that reluctance, convulsion and agony, incident to persons in his condition, could in the least be perceived in him. He looked death in the face with such undaunted resolution, as gave many occasion to say, grace had left in him no resentment of nature.

After a short pause, viewing the people, and finding them attentive to what he should say, he stepped to one side of the scaffold, and with a graceful air, and intelligible voice, pronounced his last speech as follows:—

By the permission of Almighty God, I am this day brought hither to suffer death, as if I were guilty of high-treason. I do most truly, in the presence of the eternal, omnipotent, and all-knowing God, protest upon my salvation, that I am as innocent as it is possible for any man to be, so much as in a thought, of the crimes laid to my charge.

I do now upon my death and salvation aver, that I never spoke one word either to Oates or Turberville, or, to my knowledge, ever saw them until my trial. And for Dugdale, I never spoke unto him of any thing but about a foot-boy, or a foot-man, or foot-race, and never was then alone with him. All the punishment that I wish them, is that they may repent and acknowledge the wrong that they have done me; then it will appear how innocent I am. God forgive them; I have a great confidence that it will please Almighty God, and that he will in a short time bring truth to light; then you and all the world will see and know what injury they have done me.

I beseech God not to revenge my innocent blood upon the nation, or on those that were the cause of it, with my last breath. I do with my last breath truly assert my innocency, and hope the omnipotent all-seeing just God will deal with me accordingly.

His speech being ended, he delivered several written copies of it to the sheriffs, and others near him, (one of which, written with his own hand, he sent to the king) then he returned to the middle of the scaffold, where, encompassed by his catholic friends, he kneeled down, and reverently making the sign of the cross, prayed aloud with exceeding devotion.

Having ended his prayer, and remaining still on his knees, he again protested his innocence. Then rising up, he a second time saluted the people, and walking to each side of the scaffold, told them they had as good and gracious a king as ever reigned.

In this conjuncture a protestant minister accosted him, saying, have you received no indulgencies from the Romish church? have you received no absolution? To which his Lordship answered, “what have you to do with my religion? However, I do say, the Roman Catholic church allows of no indulgencies or dispensations, authorizing treason, murder, lying or fore-swearing; nor have I received any absolution for such ends. Pray do not trouble yourself nor me.”

Then turning from the clergyman, he addressed himself to his friends about him, whom he lovingly embraced,

and with a pleasant voice and aspect, bid them adieu for this world. He next delivered his watch, two rings off his fingers, his staff, and his crucifix about his neck, as legacies to several friends. He desired the sheriffs that such persons as he nominated, might have leave (without the executioner's intermeddling) to assist him, and take care of his body, which was accordingly done; and his gentleman stripping him of his coat and peruke, put on his head a silk cap, and adjusted his hair, shirt, and waistcoat, for the execution. And now being ready for death both in body and mind, he cheerfully submitted himself to the block, before which first kneeling down, and making the sign of the cross, he recommended himself with raptures of devotion to the divine mercy and goodness; after this he lay down, as it were to try the block. And then, with surprising courage and magnanimity he embraced the fatal wood, as the dear basis or point from whence his soul was about to take its flight to immortal glory. The headsman put him in mind, that his shirt and waistcoat came too high, whereupon he raised himself up upon his knees, and bid his gentleman put them lower. Whilst this was performing, he was heard continually to breathe forth several sentences of prayer, as "Sweet Jesus receive my soul: into thy hands, O Lord, I commend my spirit," &c. When his gentleman had finished, he again laid down his head upon the block, persevering still in prayer, and expecting the sudden and dismal arrest of death, with a courage, say the papists, divinely elevated, a constancy almost super-human. No change in his countenance, no quaking or trembling in any joint of his body, could be discerned. Thus he lay, or rather quietly rested upon the very brink of time and eternity, for some time; till at length, finding the headsman delayed the execution of his office, he once more raised himself upon his knees, and with settled aspect (but still serene and lively) asked why they staid. It was answered, for a sign, what sign will you give Sir? he replied, none at all, take your own time, God's will be done, I am ready. The headsman said, I hope you forgive me; he answered, I do. Then blessing himself again with the sign of the cross, he laid his head upon the block, never more to lift it up in this mortal state.

The executioner took the axe in his hand, and after a short pause, elevated it on high, as it were to take aim, and set it down again; a second time he did so, and sighed; the third time he gave the fatal blow, which severed his lordship's head from his body, save only a small part of the skin and windpipe, which was immediately cut off with a knife.

The body, after separation from the head, trembled a little, and stirred no more. The head was received into a black silk scarf, by two of his lordship's friends, and retained by them till the sheriff called for it, and commanded the executioner to hold it up to the view of the multitude, which he did at the four corners of the scaffold, crying aloud, "This is the head of a traitor."

EDWARD FITZHARRIS, Esq.

FOR HIGH-TREASON, IN THE COURT OF KING'S BENCH,
1681.

EDWARD FITZHARRIS was indicted for a treasonable libel on the King and government, February 28, 1680. He was first impeached of high-treason, in general terms, at Oxford, March 21, but on the dissolution of parliament, he was removed to the King's Bench Bar, where he was brought from the Tower, by habeas, April 30, when he pleaded that having been previously indicted at Oxford, he was not compelled to answer to another indictment, in the former court, for the same offence. His case was argued by counsel at considerable length, and Fitzharris requesting time to send for a material witness from Holland, his trial was deferred till next term.

Accordingly the prisoner was again brought to the Bar for trial, June 9, 1681.

The prisoner moved, That his wife and his solicitor might stand by him, with such papers as he had prepared to assist his memory. It was granted that his wife only should, provided she did not convey to him papers drawn by counsel.

The King's counsel informed the court, that the prisoner's wife had brought him a copy of the panel, with directions whom he should challenge; and that there were three anabaptist preachers, and several other fana-

ties, returned upon the jury; and insisted, that the prisoner's wife should be removed farther from him: but the prisoner returning the papers, she was permitted to remain where she was.

The jury being sworn, and pen, ink, and paper being allowed the prisoner on his request, the indictment was read; which charged the prisoner with high treason, in compassing and imagining the death of the King; and inciting one Edmond Everard, and others, to assist him therein. And that the better to effect his traitorous purposes, he did frame and make a treasonable libel; entitled, "The true Englishman" speaking plain English; in which were the following words:—

"If James (meaning the Duke of York) be conscious and guilty, Charles (meaning the King) is so too. Believe me, both these are brethren in iniquity. They are in confederacy with the pope and the French, to introduce popery and arbitrary government, as their actions demonstrate. The parliament's Magna Charta, and the liberty of the subject, are heavy yokes, they would willingly cast off, to make themselves as absolute as their brother of France. And if it can be proved to be their aim and main endeavour, why should not every true Briton be a quaker thus far, and let the English spirit be up and move, as one man, to self-defence? Nay, and if need be, to open action, and fling off these intolerable riders?" And, in another place, "J. and C. (meaning the King and Duke) both brethren in iniquity, corrupt both in root and branch, as you have seen, study to enslave you to a Romish and French-like yoke. Is it not plain? Have you not eyes, sense, or feeling? Where is that old English noble spirit? Are you become French asses, to suffer any load to be laid upon you? And if you can get no remedy from the next parliament, as certainly you will not; and that the King repents not, complies not, with your advice; then up, all as one man. O brave Englishmen, look to your own defence, ere it be too late! Rouse up your spirits!" In another place he said, "I will only add, that, as it is the undoubted right of parliaments to make a law against a popish successor, who would prove destructive to our laws and liberties; so it is their undoubted right to dethrone any possessor, that follows evil counsellors, to the destruction of our government."

Mr. Everard deposed, that he became acquainted with the prisoner Fitzharris in the French service abroad; and renewing his acquaintance with the prisoner in February last, he told the deponent, if he would re-ingratiate himself with the French and popish interest, he might be serviceable to himself and others. That there were several parliament men, and others, that adhered to the French interest, and gave the French ambassador an account of every day's proceedings. That the prisoner desired the deponent to write another pamphlet, reflecting on the King; to alienate the King from his people, and his people from him. (The deponent being supposed the author of a pamphlet, called, "An Answer to the King's Declaration, concerning the Duke of Monmouth.") That on Monday

the twenty-first of February, the prisoner came to the deponent, and gave him some instructions for drawing up the pamphlet; and appointing to come again, the deponent concealed Mr. Smith in his chamber, so as to over-hear their conversation. That accordingly Mr. Smith came, and was concealed in the deponent's study; and Fitzharris, coming in soon after, asked the deponent what he had done in the matter. Whereupon he shewed him something he had drawn up, which he approved, and gave him further instructions, appointing to come again the next day, against which time the deponent got both Mr. Smith and Sir William Waller concealed in his chamber; and a little while after, Fitzharris came in, and the deponent gave him a copy of what he had drawn up; and the deponent read another copy, and Fitzharris added some things, and put out others; and said it must be written over fair, because it was not fit for the French ambassador's confessor to read, who was to present it to the ambassador. That the deponent said, it should be done; but these were very treasonable things; and Fitzharris answered, The more treasonable the better; "it would set the people together by the ears, and keep them clashing and mistrusting one another, while the French King would gain Flanders; and then he would make no bones of England." That he bid the deponent not be discouraged by the danger; for when this was done, he should have forty guineas, and a pension afterwards of some thousand crowns; for his master, the French King, was not such a niggard as the Spaniard.

Fitzharris demanded, if the witness was not put upon this to trepan other people? To which Everard answered, He was put upon it by nobody but Fitzharris; and that the libel was drawn up in the name of the nonconformists, and to be put upon them.

Smith deposed, That he was concealed in Everard's chamber in Gray's-Inn; and Fitzharris coming in, Everard produced a paper, and read it to Fitzharris, who said, there must be some things added, "that he must represent the King a papist, and might demonstrate it from several instances; as his espousing the Duke of York's interest, and preferring his creatures by sea and land, some of whom were known papists." He directed Mr. Everard to charge King Charles I. with promoting the Irish rebellion, and Charles II. with furthering: said, the Oxford parliament was but a sham; and such a King was not to be trusted with the lives, liberties, or religion, of a people; but the people ought to provide for themselves, and blow the trumpet boldly. And, as it was the people's right to make laws, and oppose a Popish successor, so they might depose a Popish possessor. That Everard promised to pursue his instructions; but said he was in great danger. Fitzharris answered, so was he and a great many more; and mentioned something of a reward.

Sir William Waller deposed, that he also was concealed in Everard's chamber, and heard the conversation between him and Fitzharris, being of much the same tenor as Smith had deposed.

The prisoner said, "Had not Sir William Waller a design to trepan me in this matter? For I always looked upon him as my enemy." Sir William answered, "No indeed, not I."

The libel was then read, and the obnoxious words compared with those laid in the indictment, when they appeared to agree.

Sir Philip Lloyd, and Mr. Bridgman deposed, that Fitzharris acknowledged part of the instructions which he gave Mr. Everard to be his own hand writing.

The prisoner calling Mr. Oates as a witness for him, Oates deposed, that discoursing with Everard about the libel, he acknowledged he wrote it, and took a great deal out of the intercepted letter to Sir Roger L'Estrange: and asking what the design of the book was, Everard said, it was to be sent by the penny-post to the protesting lords, and the leading men in the House of Commons, that they might be taken up and searched, and have it found upon them; and added, that the court had a hand in it; the King had given Fitzharris money, and would give him more if he had success.

Colonel Mansel deposed, that he was at the Dog-tavern with Sir William Waller, and some other company; and Sir William said, when he acquainted the King with the discovery, his Majesty told him, he had done him the greatest piece of service that ever he had done him in his life; and gave Sir William a great many thanks; but soon after he left the King, two worthy gentlemen told him, that the King said, he (Sir William) had broken all his measures, and he would have him taken off one way or other; and that Sir William said, the design was against the protestant party.

Lord Howard deposed, that in the beginning of October last, Fitzharris applied to his lordship in the name of his Majesty, desiring he would wait on the King; but he declined it, lest he should be put upon declaring his sentiments, which were not agreeable to his Majesty: that the prisoner then desired he would wait on the Duchess of Portsmouth, who would be a good instrument to the King, in persuading him to a good opinion of the approaching parliament; and the prisoner said, he could assure him, she was in the same interest he looked towards; she was no friend to the Duke of York: and the deponent was prevailed on to wait on the duchess, where he found his Majesty; but if the 250l. were given the prisoner, for bringing him thither, his Majesty, he believed, did not think he deserved it at that time: that he had an opportunity of seeing the King again, about ten days after, by Fitzharris's means; and after the parliament, he waited on the Duchess of Portsmouth, and told her, he was sensible she had endeavoured, as much as lay in her power, to persuade the King to a good opinion of the parliament; and to give them time for sitting, and an opportunity of explaining their intentions for his service: and when he took his leave, he requested the duchess to represent the prisoner's condition to the King, since by his means he had the honour to be shewed the way to her Grace's lodgings.

That the night before the Lord Stafford was condemned, the prisoner came to his lordship, as from the King; and said, his Majesty would take it as a great instance of his resignation to his pleasure, and he might promise himself all the kindness a prince could shew his subject, if he would give his vote next day for the Lord Stafford:

to which his lordship answered, he had all the obligations of blood and nature, to dispose him to favour Lord Stafford; but, though he was wavering in his thoughts before, now by the grace of God he would go, though he was carried on men's backs, to the house; he saw it was the concern of the protestant cause; and if all the relations he had were melted down into Lord Stafford, if he had but breath enough to pronounce his doom, he should die.

Mr Secretary Jenkins appearing as a witness for the prisoner, he demanded, if the King did not own he had employed him: to which the Secretary answered, he did not remember the King ever owned he had made use of him: he then asked Lord Conway, if he did not remember it: Lord Conway answered, no; but he had heard his Majesty say, he formerly employed him in some trifling things: that the King never spoke to him, till the day after he was taken up.

The Duchess of Portsmouth appearing, Fitzharris demanded of her, if he was not employed to bring several papers to the King, particularly the impeachment against her Grace; and if she did not tell him, it was a great piece of service to bring such papers; and if he could find men fit for that purpose, he would do the king good service; and if he did not acquaint her Grace, he knew one Everard, who knew all the clubs in the city, and could tell the designs of Lord Shaftesbury and all his party, and if her Grace did not encourage him to go on; and by her means he came to speak to the King about it.

The duchess answered, she was concerned in no sort of business with him; only he desired her to give his Majesty a petition to get his estate in Ireland; and she spoke to the King three or four times about it: that she never had any papers from him; but the money was given him in charity: the prisoner replied, he was sorry her Grace was so much under the influence of Mrs. Wall, her attendant: the duchess said, she did not come there to wrangle with him: if she could do him any good she would; but she did not see how she could be further serviceable to him; she then went out of court.

Fitzharris in his defence, said, he could not forbear complaining of the hard usage he had received; greater oppressions had not been known: he had been a close prisoner, and no manner of assistance allowed him to make his defence: and though Lady Portsmouth, Mrs. Wall, and the rest, were pleased to say, he was not employed or received money for secret services, it was well known he did so: and though Mr. Everard would make a French story of it now, he knew it was otherwise. He affirmed he was well acquainted with the Lords Shaftesbury and Howard, and knew all their clubs and intrigues in the city: and he (Fitzharris) told him, it would be of the greatest consequence to continue his discoveries: that he (Fitzharris) never was in the French interest, though he humoured Everard's discourse, that he might reduce the paper he accused him

of under some heads; and he no sooner had it, but he carried it to Whitehall: and whereas Everard said, he was to have forty guineas, it was but forty shillings he desired, in regard to his poverty: that when he came to Whitehall, he shewed the paper to a gentleman, who was to have given it to Lord Clarendon; but before that lord had it, he was taken up. What he had done, was with a design to serve the king, in discovering the designs against him; and he was employed, though both the secretaries were so unkind as to deny it: he was not ashamed to say it, though his life were lost upon it.

The Chief Justice, in summing up the evidence, observed, that the libel contained treasonable matter: that a more virulent and villainous book was never written; which tended to defame the king and his ancestors, to blast all that came after him, and incite the people to sedition and rebellion. That this was a piece of art of the Jesuits, which exceeded all they had done before; and they had found an apt instrument, an Irish papist, one who had been concerned with them in several plots and conspiracies of this nature: that the evidence against the prisoner was as strong as ever was given against a traitor.

While this cause was trying, papers were continually put into the hands of the jury, dissuading them from finding the prisoner guilty; threatening them if they did, and telling them they must answer for it in parliament; and, that the nation would never desist, till they had ruined them and their families: and as they withdrew, some that stood by said, "Find him guilty if you dare."

The jury, having withdrawn about half an hour, returned their verdict, that the prisoner was Guilty.

Fitzharris being brought to the bar again the 15th of June, to receive sentence, desired he might be transported; but the Chief Justice pronounced the usual sentence in cases of high-treason: and on the 22d of June, a writ was issued out of the King's Bench to the Lieutenant of the Tower, reciting the judgment, and commanding the lieutenant to deliver the prisoner to the Sheriff of Middlesex, the 1st of July following; and another writ to the sheriff to receive him, and cause him to be executed according to the sentence.

On July 1, Mr. Fitzharris delivered his confession, written with his own hand, to Dr. Hawkins, Minister of the Tower, being the day of his execution :

" I Edward Fitzharris, having been indicted of hig htreason, for endeavouring to dethrone the king, was thereupon found guilty, and sentence of death passed on me. I the aforesaid Edward Fitzharris do voluntarily and freely, without any hopes to save my life, but as a dying man, and to discharge my conscience towards God, and for the better satisfaction of the world, make this declaration following, in the presence of God, and unto Doctor Francis Hawkins, Chaplain of the Tower of London.

" I do confess and declare, as to the crimes which I die for, I was no farther concerned in the libel, than as employed to give the king notice of what libels, or other accusations, there were against him ; and, to this intent, and no other, I endeavoured to get this libel ; which, at length I did from Mr. Everard, all written under his own hand, and carried it to Mrs. Wall, by whose means I conveyed all matters of this, or the like nature, to the King. I told her I had a business of great consequence to acquaint the King with ; but she answered me, that my Lord Sunderland being out, there would be no money had for secret service, and advised me to go to the Lord Clarendon or Hyde ; but before I could do this, I was taken. As for that part of the libel which I left with Everard, as a pledge to assure him I would not betray him, I received it of the Lord Howard. And the money I received from the King, was for bringing a libel, called, " The King unveiled, and the Lady Portsmouth's articles." I call God to witness, I never had a farthing charity from the King.

" I do further confess and declare, that the Lord Howard told me of a design to seize upon the King's person, and to carry him into the city, and there detain him, till he had condescended to their desires. Heyns and myself were privy to this design, and had several meetings with Lord Howard ; and as an encouragement, Lord Howard assured us of breaking the settlement of Ireland, taking off the additional revenue of the bishops forty-nine men and grantees, whose estates were to be shared amongst the party.

" I do confess and declare, that while I was in Newgate, the sheriffs Bethel and Cornish came to me, with a token from the Lord Howard, which I knew to be true, and brought heads with them from Everard, wherein he accused me of being a court-emissary, or Yorkist, set on by the King, to put the libel into protestants' houses to trepan them. But I declare upon my death, I had no such intent, nor do I know any such thing. The sheriffs likewise told me, I was to be tried within three or four days ; that the people would prosecute me, and the parliament would impeach me ; and that nothing would save my life, but discovering the popish plot ; and then the said sheriffs gave me great encouragement from my Lord Howard, that if I would declare, that I believed so much of the plot as amounted to the introducing the R. C. (Royal Charles,) or if I could find out any that could criminate the queen, R. H. (Royal Highness) or so much as make a plausible story to confirm the plot ;

that the parliament would restore me to my father's estate, with the profits thereof, since his Majesty's restoration.

" I finding myself fettered, moneyless, and friendless ; my wife ready to lie in without any subsistence, my children in a miserable condition, and must needs be in a worse by my death ; and I could see no other refuge for my life, but complying with them ; so not with any ambitious intent, but to save my life, I did comply. The sheriffs brought instructions, which, they said, came from the lords and commons, who met that day, in order to address the King in my behalf, (if I should confirm the instructions ;) and they made use of the Lord Shaftesbury's name, and others, what advantage I might have thereby."

At the place of execution, at Tyburn, he delivered the following speech :

Good people, this infamous kind of death is much more irksome to me than death itself : such judgments as these my sins against God may justly bring upon me, and I do most humbly submit unto it. But as to the crimes which I now die for, I take God to witness, I was no further concerned in the libel, than to discover to the King what practices of that kind were against him, being employed to that end ; though those that employed me, refused to do me justice at my trial. And I call God to witness, I never had a farthing of money of the King in my life, but on the account of the like service. And as to the witnesses that have sworn against me, I do here solemnly declare, now at my death, that I have not seen the French ambassador since the beginning of the breaking out of the plot, neither have I had any acquaintance with him. And as to his confessor, I never spoke with him in my life ; neither have I had any dealing, either directly or indirectly, in my life with them, though Sir William Waller and the rest swore most falsely to the contrary. And how like it is that the French ambassador would give 5,000 crowns for writing that libel, I leave the world to judge. What I may further declare, I have left with Dr. Hawkins. I forgive all the world, and do hope that God will forgive me. I beg the prayers of all good people for a happy passage into the other world.

CHARLES GEO. BOROSKI,
CHRISTOPHER URATZ, JOHN STERN,
AND
CHAS. JOHN COUNT CONINGSMARK,

FOR MURDER, AT THE OLD BAILEY, LONDON,

FEB. 28, 1681.

THE indictment charged the three first with making an assault on Thomas Thynn, Esq. on the 12th of that instant, February, when the said Boroski shot the said Thynn with a blunderbuss, loaded with four bullets, giving him thereby four mortal wounds in his body, of which he languished till the 13th instant, and then died; and the said Count was charged with procuring the said three persons to commit the said murder.

The prisoners, being all foreigners, were tried by a jury, half English and half foreigners, and the indictment and evidence interpreted to them.

The evidence being called, William Cole, Mr. Thynn's footman, was sworn, and deposed, that as his master was riding in his coach from the Countess of Northumberland's, on Sunday, about eight in the evening, being the 11th or 12th of this instant February, he, the deponent, ran before the coach with a flambeau in his hand; and, at the lower end of St. Alban's-street, hearing a blunderbuss go off, he looked back, and saw a great smoke: and heard his master, Mr. Thynn, cry out, he was murdered; and seeing three horsemen riding away from the right side of the coach, he, the deponent, pursued them, crying out murder, to the upper end of the Haymarket.

William Ellers, Mr. Thynn's coachman, deposed, that driving his master from the Lady Northumberland's, in St. James's-street, three men came riding by the right side of the coach, at the end of St. Alban's-street, and one of them turned about, and said, "Stop, you dog:" and as the deponent was looking about, the fire was let into the coach upon his master, and the men rode away.

Hobbs, the surgeon, deposed, he was sent for to Mr. Thynn, about nine on Sunday the 12th of February in the evening, and found him shot with four bullets, which entered his body, tore his entrails, wounded his liver, stomach and gall, broke one of his ribs, and the great bone below; and that he died of those wounds, every one of them, as he believed, being mortal.

The Coroner also deposed, that he sat on the body of Mr. Thynn, and found it wounded with bullets, as the surgeon had sworn.

This evidence being interpreted to the prisoners, Boroski said, he could not tell how many bullets were in the blunderbuss; he did not charge it, though he fired it; he received it from Captain Uratz.

Uratz acknowledged his giving the blunderbuss to Boroski, and Stern confessed he bought it by the order of Uratz; that they both assisted in loading it, and were present when Boroski fired at Mr. Thynn.

Uratz being asked, what affront Mr. Thynn had given him, he said, he heard he had spoken scandalously of the Count, who was his friend, and from whom he had received many obligations; and therefore he, Uratz, took the quarrel upon himself, and challenged Mr. Thynn to fight, which he refused several times; whereupon he, Uratz, took the other two men with him, to oblige him to fight, and to make his escape afterwards; he confessed also he stopped the coach; but said, Boroski fired by mistake; for he bid him not fire, unless he should be prevented from fighting, or making his escape.

Boroski, on the other hand, said, Uratz ordered him to fire, as soon as he stopped the coach.

Stern confessed Uratz told him he had a quarrel with a gentleman, and if he would assist him he would make his fortune; that the captain told him also he would give two or three hundred crowns, to find a man that would kill Mr. Thynn; and before Boroski came over the captain desired him to get an Italian to stab a man.

The witnesses against Count Coningsmark were then called: and first, Hanson, tutor to the young Count, deposed, that the Count, the prisoner, came into England about a month before, and lodged first at a corner house in the Haymarket, where he staid a week, keeping his chamber all the time: nor was he known to the family where he lodged, but went by the name of the stranger; that he took a second lodging, two or three streets from the former, where he staid but two days, because the chimnies smoked, and removed from thence to St. Martin's-lane, where he kept himself private, as in his other lodgings; that at the Count's lodgings he sometimes saw Captain Uratz who came to England with him.

The counsel demanding if he did not carry a message from the Count to the Swedish envoy? Hanson answered, no direct message: but the Count having told him, he heard Mr. Thynn had spoken abusively of him, he would fain know what would be the consequence, if he should call him to an account, and seemed desirous to have the opinion of the Swedish envoy; whereupon he, the deponent, mentioned it to the Swedish envoy, who answered, if the Count meddled with Mr. Thynn, he would have but bad living in England; but what the law was, in that case, he could not say.

The counsel then asked him, if there was any thing in that message about marrying Lady Ogle? Hanson answered, the Count enquired if he should call Mr. Thynn to an account, and have an ad-

vantage of him; whether the laws of England would be any bar to his pretensions to Lady Ogle.

The counsel then asked Hanson when he saw Boroski first? He answered, he came to him at the French academy, to enquire for Count Coningsmark the Friday before the accident happened; that the Count expected him some time before, and thought he had been cast away in a storm; he said, he was an able man, and understood horses; and he intended to buy English horses, and designed that Boroski, the Polander, should look after them, and dress them after the German way. That Boroski came to the deponent again the next day, being Saturday, and he went with him to the Count's lodgings, who asked him where he had been; Boroski answered, he had been tossed about upon the sea, and the deponent left him at the Count's lodgings.

The counsel asked what directions he had about providing Boroski with a sword? Hanson answered, he had directions the same day, to get him a great coat and a sword, and he provided them accordingly.

John Wright being sworn, the counsel asked him, when Boroski the Polander came to England? He answered, on Friday, the 10th of this month; and that he went with him to the young Count's, (brother of the prisoner,) lodgings, at the academy, where Boroski delivered a letter to Mr. Hanson; and he was ordered to bring the Polander thither again next morning, which he did, and never saw him afterwards.

Dr. Frederick Harder being sworn, deposed, that Captain Uratz lived with Count Coningsmark, and came over to England with him; and that, about a month ago, Uratz came to the deponent, and told him the Count wanted to speak with him, when he went to him at his first lodgings, the corner of the Haymarket. The counsel asking, if the Count went by his own name, or was in a disguise; the doctor answered, he desired to be private, because he was taking medicines, and would not have it known; he desired, therefore, to be called by the name of Carlo Cuski; and as for a disguise, he wore a black wig. I think the Count usually wore his own hair.

Several witnesses deposed, that the Count lived privately in his lodgings; that Captain Uratz lodged with him sometimes, and Dr. Harder used to visit him.

Watts, a boy, deposed, that he came to live with the Count ten days before the death of Mr. Thynn; and that on Sunday evening when the murder was committed, Captain Uratz came to his lord's lodgings, as he was waiting below stairs, and did not come down again before he, the deponent, went home, for he slept at his father's.

That the Polander was at his lord's lodgings on Saturday before the murder, and dined with the other servants; and on Sunday a sword was delivered to him, and he went away that morning, with a pair of boots and the sword under his arm, having a new coat on; and it appeared the Polander had a buff coat under his great coat.

Watts, the boy, farther deposed, that he came to his lord's lodgings the Monday morning after Mr. Thynn was killed, and he was packing up his things; and his father, who was a porter, carried

away two portmanteaus for him; and that the Count had a black peruke on when he went away.

Watts, the father, deposed, that he carried two portmanteaus to the Windsor coach for the Count, about nine on Monday morning, being the day after Mr. Thynn was killed.

Raynes, a Swede, deposed, that the Count lay at his house at Redriff from the Monday after Mr. Thynn was killed to the Thursday following, when he was carried by a sculler to Deptford, the next day to Greenwich, and the day after to Gravesend.

Two of the King's messengers were then sworn, who deposed, that they took the Count as he was landing at Gravesend, the Sunday after the murder; and that, when they seized him, he gave a sudden start, and his wig fell off; that they carried him before the mayor of Gravesend, and afterwards to an inn in the town, where he evinced very great concern, when he was told the captain and the Polander had confessed some particulars, and said, it was a stain upon his blood, but one good action in the wars, or lodging on a counterscarp, would wash all that away.

Count Coningsmark said in his defence, that he came into England with a design to raise a regiment to serve the King against the French; that he had already served the King at Tangier, when this Polander attended him; and that he designed, at that time, to bring him to England, to dress his horses after the German way; and had actually sent over a thousand pistoles to buy horses, which the young Count attested; that a distemper broke out in his arms and breast, which obliged him to live privately till he was cured; and besides, his equipage was not come over, and he could not appear like a man of quality till it arrived; that he never had any quarrel with Mr. Thynn, or ever saw him to the best of his remembrance; that he provided the Polander with a coat, because he was in rags; and the broad sword was no more than what servants of his bulk and make usually wore; and he had his buff coat, before; that the reason he withdrew was, because he was afraid the people would pull him to pieces, as they seemed to suspect he was concerned in the fact.

Sir Francis Winnington then made his observations on the evidence for the King, and said, as to the principals, they had confessed the fact; but could any rational man believe, from the account they gave themselves, that they had any delight in killing that innocent gentleman? There must be some other reason for committing that barbarous murder, and the Count was a very unfortunate man to have such a connexion with the principals; two of

whom, Uratz and the Polander, were of his lordship's family, and Uratz was with him on that very evening the fact was committed, even after it was done. And it appeared the more suspicious, that the Count should provide Boroski with a sword and boots on that very Sunday morning he murdered Mr. Thynn; and that the Polander should go from the Count's lodgings with a buff coat under his great coat, and not return till the fact was committed.

The court and the jury might observe what kind of man Boroski was; and how likely to fall into such a plot, being at the command of so great a person. It was observable, also, that most of the witnesses were the Count's friends, and unwilling to declare the truth, till it was with difficulty drawn from them. And where should a man go for the original of this business? Could any one think it was contrived by the three agents? To what end or purpose? What advantage could it be to them? He must say, he knew not where to go for the author of this villainous fact, nor whom to accuse as the prime contriver of it, but the Count. On this remark, the audience testified loud approbation.

Mr. Williams also made his observations on the evidence; and, besides the remarks made by Sir Francis, took notice, that Hanson, his brother's tutor, acknowledged that the Count talked of requiring satisfaction of Mr. Thynn on Lady Ogle's account, and enquired what might be the consequence of it; nor had the Count given any rational answer, as to his lurking and hiding himself ever since he came to England. He pretended, indeed, to labour under a distemper which he was anxious to conceal; and yet, the next morning after the fact was done, he valued neither disease nor physic, but went by water, and attempted to fly beyond sea. And could any man believe, when Uratz came over with him, lodged with him, and was every day in familiar conversation with him, and came the morning before, and in the evening immediately after the murder, and staid with the Count a considerable time, that his lordship could be perfectly innocent? Would not any man conclude him accessory to the murder? And as to his pretended fears of the people to excuse his flight, he knew he might, without danger, have surrendered him-

self to a magistrate, and been protected, if he had been innocent.

The Chief Justice then gave his directions to the jury, and observed, that when one man shoots another, and two are with him, who came on purpose to countenance the fact, it was murder in them all. That Uratz and Stern acknowledged themselves to be at the murder, but said they only came to fight a duel with Mr. Thynn; for Uratz asserted as an excuse, that he intended to kill him fairly, and the other two were to stand by to see him make the best of it. So that they all came with a murderous intent, and a murder followed, and consequently the three principals were all guilty of murder.

As to Count Coningsmark, the question was, whether he commanded, or gave any directions to have the murder committed? for without that he could not be an accessory. If a gentleman has an affront given him, which he seems to resent, and any of his servants officiously, without acquainting him with it, will kill the person they apprehend has affronted their master, without his knowledge, he is not guilty; and if they believe he did not know of it, till after it was done, they must acquit him.

The jury, therefore, after retiring half an hour, brought in the three principals guilty, but acquitted the Count, who was ordered, however, to enter into a recognizance with three sureties, to appear the next sessions, and answer any appeal that might be brought by Mr. Thynn's relations.

The other three being brought to the bar again, and asked what they had to say why sentence of death should not be passed upon them; Uratz insisted he had not had a fair trial, and Stern said, it was for Captain Uratz's sake he was concerned in the fact. And as to Boroski, he did not pretend to make any apology for the murder, considering himself to be under an obligation of obeying his superiors without reserve. Whereupon sentence of death was pronounced upon the principals by the Recorder, the judges having left the bench. The three prisoners were accordingly hanged in Pall-Mall, the 10th of March following, and Boroski, who fired the blunderbuss, was afterwards hanged in chains near Mile-end.

As Mr. Thynn was considered to be of Lord Shaftesbury's party, it was reported, at first, that this was another branch of the Popish plot, and that a general massacre was still to be expected from the Papists ; but the matter soon appeared to be no more than a love affair, and that Mr. Thynn had been murdered by some of the servants or dependants of Count Coningsmark, who had been his rival when he courted Lady Ogle, of whom Mr. Echard gives us the following account :

“Josceline, late Earl of Northumberland, of the family of Percy, dying in the year 1670, left no issue but the Lady Elizabeth, his daughter and sole heir (at the time of his death about four years of age) who possessing a great fortune, was in her minority, married to Henry Earl of Ogle, son-and-heir to the Duke of Newcastle, who dying soon after, left her a virgin widow ; after which, many people of the first quality made their addresses to her, and among the rest Count Coningsmark, whose pretensions, it is said, were countenanced by the King ; but the young lady, by her grandmother's contrivance, was married privately the summer before the accident happened, to Mr. Thynn, a gentleman of ten thousand pounds a-year estate, who had been a member of several parliaments, and made some figure both within the house and out of it ; but whether the lady herself did not approve of the match, or was put upon it by others, she privately went over to Holland in Michaelmas term, 1681, before Mr. Thynn had ever cohabited with her.”

LORD WILLIAM RUSSELL,

FOR HIGH TREASON, JULY 13, 1683.

THE forced election of the sheriffs in 1681, seemed to complete the victory of the throne over the people. Lord Russell received the news with the regret which, in a person of his temper, it was most likely to produce. Lord Shaftesbury, on the other hand, who was provoked at the apathy of his party, received with joy the news of the appointment of the sheriffs, thinking that his London friends, seeing their necks in danger, would join with him in raising an insurrection. He hoped, at first, to make use of the names of the Duke of Monmouth and Lord Russell, to catch the idle and unwary, by the respect paid to their characters; but when he found them too cautious to compromise themselves, he endeavoured to ruin their credit with the citizens.

Lord Shaftesbury then attempted to raise an insurrection, by means of his own partizans, in the city. The Duke of Monmouth, at various times, discouraged these attempts. On one of these occasions, he prevailed on Lord Russell, who had come to town on private affairs, to go with him to a meeting, at the house of Shepherd, a wine-merchant.

Lord Shaftesbury being concealed in the city at this time, did not dare to appear himself at this meeting, but sent two of his creatures, Rumsey and Ferguson. Lord Grey and Sir Thomas Armstrong were also there; but nothing was determined at this meeting. Soon after this, Lord Shaftesbury, finding he could not bring his friends to rise with the speed he wished, and being in fear of discovery if he remained in London any longer, went over to Holland. He died in January, 1683.

After Shaftesbury was gone, there were held meetings of his former creatures in the chambers of one West, an active, talking man, who had got the name of being an atheist. Col. Rumsey, an officer who had served under Cromwell, and afterwards in Portugal; Ferguson, who had a general propensity for plots; Goodenough, who had been under-sheriff; and one Holloway, of Bristol,

were the chief persons at these meetings. Lord Howard was, at one time, among them. Their discourse seems to have extended itself to the worst species of treason and murder; but whether they had any concerted plan for assassinating the King, is uncertain. Amongst those who were sounded in this business, was one Keeling, a vintner, sinking in business, to whom Goodenough often spoke of their designs. This man went to Legge, then made Lord Dartmouth, and discovered all he knew. Lord Dartmouth took him to Secretary Jenkins, who told him he could not proceed without more witnesses. It would also seem that some promises were made to him; for he said in a tavern, in the hearing of many persons, that "he had considerable proffers made him of money, and a place worth 100*l.* or 80*l.* per annum, to do something for them;" and he afterwards obtained a place in the Victualling Office, by means of Lord Halifax. The method he took of procuring another witness, was by taking his brother into the company of Goodenough, and afterwards persuading him to go and tell what he had heard at Whitehall.

The substance of the information given by Josiah Keeling, in his first examination, was that a plot had been formed for enlisting forty men, to intercept the King and Duke, on their return from Newmarket, at a farm-house called Rye, belonging to one Rumbold, a maltster; that this plan being defeated by a fire at Newmarket, which caused the King's return sooner than was expected, the design of an insurrection was laid; and, as the means of carrying this project into effect, they said that Goodenough had spoken of 4000 men, and 20,000*l.* to be raised by the Duke of Monmouth and other great men. The following day, the two brothers made oath that Goodenough had told them that Lord Russell had promised to engage in the design, and to use all his interest to accomplish the killing of the King and the Duke. When the council found that the Duke of Monmouth and Lord Russell were named, they wrote to the King to London; for they would not venture to go further, without his presence and leave. In the meantime, warrants were issued for the apprehension of several of the conspirators. Hearing of this, and having received private information from the brother of Keeling,

they had a meeting on the 18th June, at Captain Walcot's lodging. At this meeting were present Walcot, Wade, Rumsey, Norton, the two Goodenoughs, Nelthrop, West, and Ferguson. Finding they had no means either of opposing the King, or flying into Holland, they agreed to separate, and shift each man for himself.

A proclamation was now issued for seizing on some who could not be found; and amongst these, Rumsey and West were named. The next day, West surrendered himself, and Rumsey came in a day after him. Their confessions, especially concerning the assassination at the Rye House, were very ample. Burnet says, "they had concerted a story to be brought out on such an emergency."

In this critical situation, Lord Russell, though perfectly sensible of his danger, acted with the greatest composure. He had, long before, told Mr. Johnson, that "he was very sensible he should fall a sacrifice: arbitrary government could not be set up in England without wading through his blood." The day before the King arrived, a messenger of the council was sent to wait at his gate, to stop him if he had offered to go out: yet his back-gate was not watched, so that he might have gone away, if he had chosen. He had heard that he was named by Rumsey; but forgetting the meeting at Sheppard's, he feared no danger from a man whom he had always disliked, and never trusted. Yet he thought proper to send his wife amongst his friends for advice. They were at first of different minds; but, as he said he apprehended nothing from Rumsey, they agreed that his flight would look too like a confession of guilt. This advice coinciding with his own opinion, he determined to stay where he was. As soon as the King arrived, a messenger was sent to bring him before the council. When he appeared there, the King told him that nobody suspected him of any design against his person; but that he had good evidence of his being in designs against his government. He was examined, upon the information of Rumsey, concerning the meeting at Sheppard's, to which Rumsey pretended to have carried a message, requiring a speedy resolution, and to have received for answer, that Mr. Trenchard had failed them at Taun-

ton. Lord Russell totally denied all knowledge of this message. When the examination was finished, Lord Russell was sent a close prisoner to the Tower. Upon his going in, he told his servant, Taunton, that he was sworn against, and they would have his life. Taunton said he hoped it would not be in the power of his enemies to take it. Lord Russell answered, Yes; the devil is loose*. From this moment he looked upon himself as a dying man, and turned his thoughts wholly to another world. He read much in the Scriptures, particularly in the Psalms; but whilst he behaved with the serenity of a man prepared for death, his friends exhibited an honourable anxiety to preserve his life. Lord Essex would not leave his house, lest his absconding might incline a jury to give more credit to the evidence against Lord Russell. The Duke of Monmouth sent to let him know he would come in and run fortunes with him, if he thought it could do him any service. He answered, it would be of no advantage to him to have his friends die with him.

A committee of the Privy Council came to examine him. Their enquiries related to the meetings at Sheppard's, the rising at Taunton, the seizing of the guards, and a design for a rising in Scotland. In answer to the questions put to him, he acknowledged he had been at Sheppard's house several times, and that he went there with the Duke of Monmouth; but he denied all knowledge of any consultation tending to an insurrection, or to surprise the guards. He remembered no discourse concerning any rising at Taunton, and knew of no design for a rising in Scotland. He answered his examiners in a civil manner, but declined making any defence till his trial, when he had no doubt of being able to prove his innocence.

Lord Russell might still have contested his life, with some prospect of success, had not a new circumstance occurred to cloud his declining prospects. This was the apprehension and confession of Lord Howard. At first, he had talked of the whole matter with scorn and contempt; and solemnly professed that he knew nothing which could hurt Lord Russell. The King himself said,

he found Lord Howard was not amongst them, and he supposed it was for the same reason which some of themselves had given, for not admitting Oates into their secrets, namely, that he was such a rogue they could not trust him. But when the news was brought to Lord Howard that West had surrendered himself, Lord Russell, who was with him, observed him change colour, and asked him if he apprehended any thing from him? He replied, that he had been as free with him as any man. Hampden saw him afterwards under great fears; and desired him to go out of the way, if he thought there was matter against him, and he had not strength of mind to meet the occasion. A warrant was now issued against him, on the evidence of West; and he was taken, after a long search, concealed in a chimney of his own house. He immediately confessed all he knew, and more. It appears but too probable, indeed, from the two following extracts, the one from Narcissus Luttrell's diary, and the other from Lady Russell's private notes, that Lord Howard, on the first appearance of danger, endeavoured to save his life at the expense of that of his friends:—

“Ever since the first discovery of this plot, (says Narcissus Luttrell,) there have been discourses of a peer's coming in to discover the same, which now proves to be the Lord Howard.”

Note, endorsed by Lady Russell:—“This was said before (*by?*) the Lady Chaworth.”

“There having run a story of a letter, without a name, writ to the King, promising a discovery against Lord Russell, which some said was Lord Huntingdon's, some Lord Essex's, Lord Howard and his wife being here on Sunday last, a lady coming in, whispered me in the ear, that here was the Lord that now they said had written the said letter to His Majesty. I whispered to her again, and asked her whether she would give me leave to tell him. She answered, Aye, if you will, when I am gone, without naming me. After which, she and all the rest of the company being gone, except Lord Howard and his lady, who staid for their coach, I said to my lord and his wife, ‘My Lord, they say now that you are the person that writ the nameless letter to the King.’ To which he replied, ‘My Lord of Essex, as much as I; and I, as much as my Lord of Essex. May my Lord Russell, and all innocent men, live till I accuse them!’”

Hampden and Lord Russell were imprisoned upon Lord Howard's information; and, four days afterwards, Lord Russell was brought to trial: but, in order to possess the public mind with a sense of the blackness of the plot, Walcôt, Hone, and Rouse, were first brought

to trial, and condemned, upon the evidence of Keeling, Lee, and West, of a design to assassinate the King.

The indictment set forth.

"That William Russell, late of London, Esq. the second day of November, in the 34th year of King Charles the Second, and divers other days and times, as well before as since, in the parish and ward of St. Michael Bassishaw, London, did, with divers other traitors, to the jurors unknown, conspire, compass and imagine the death of the King, and to that end did meet and consult, and then and there concluded to raise a rebellion, and to seize and destroy the King's guards, against the duty of his allegiance, against the peace, &c."

To which indictment he pleaded, *Not Guilty*.

Lord Russell.--My Lord, I thought a prisoner had never been arraigned and tried at the same time; I have been a close prisoner.

Ld. Ch. Justice.—For crimes of this nature, my lord, we do it continually.

Attor. Gen.—My lord hath no reason to complain; for he hath had notice ever since Monday se'nnight; he hath had counsel to advise him, and there hath been no sort of liberty denied him, which becomes any subject to have in his condition.

Lord Russell.—My lord, I have witnesses that will not be in town till night. I did not know the matter I was charged with, and I think it very hard I cannot have one day more.

Attor. Gen.—My lord, you were examined on certain questions, that you might know what the matter was you were accused of.

Ld. Ch. Justice.—Without the consent of the King's counsel we cannot put off the trial.

Lord Russell.—I never had a copy of the panel.

Ld. Ch. Justice.—I gave order for it myself: I know the King did not design to be hard upon your Lordship in his trial, but that you should have as fair a trial as ever noble person ever had.

Lord Russell.—I had no panel delivered me: I had some names of people that they said were usually on juries.

Ld. Ch. Justice.—This is not like a panel made up by the sheriffs in ordinary cases between man and man. There they make a formal panel, from which they cannot depart when that is once returned; but in criminal cases, because of the challenge, they return sixty or eighty;

and I presume your lordship was attended with the names delivered.

Serj. Jefferies.—How many names were delivered?

Mr. Atwood.—Above one hundred.

Lord Russell.—How can I know who to challenge?

Attor. Gen.—My lord, you will have cause to complain, if they are not the same men we now shall call.

Lord Russell.—My lord, I must insist on this trial being put off till the afternoon.

Ld. Ch. Justice.—The King's counsel do not think it reasonable.

Lord Russell.—May I not have pen and ink, and make use of what papers I have? Ld. Ch. Justice.—Yes, by all means.

Lord Russell.—I desire my wife may assist me in writing.

Attor. Gen.—My lord, you may have two persons to assist you, if you please.

The jury were called, and after Lord Russell had challenged thirty-one, these gentlemen were sworn.

John Martin,	William Butler,
William Rouse,	James Pickering,
Jervas Seaton,	Thomas Jove,
William Fashion,	Hugh Noden,
Thomas Short,	Robert Brough,
George Torriano,	Thomas Omeby.

The Attorney General opened the indictment, and the nature of the evidence, and took occasion to mention Lord Essex as one of the conspirators, who, he said, had that morning prevented the hand of justice upon himself.

Col. Rumsey was then called and sworn.

Col. Rumsey.—I was at Lord Shaftesbury's lodging, at Wapping, the latter end of October, or the beginning of November. He told me there were met at Mr. Sheppard's house, the Duke of Monmouth, Lord Russell, Lord Grey, Sir Thomas Armstrong, and Mr. Ferguson; and he sent me to know what resolution they had taken about the rising at Taunton. They answered me, that Mr. Trenchard had failed them; who when he came up to town first, at the term, assured them, that in three or four hours time, he could have one thousand foot, and three hundred horse; but now it came to be tried, he answered, it was not possible for him to undertake it, for people would not rush into it of a sudden, but have some time to prepare for their families. Mr. Ferguson made the answer, and I think Lord Grey said something to the same purpose. They said, Lord Shaftesbury must be contented; and upon that he resolved to depart. I staid with the company about a quarter of an hour, and then went away.

Attor. Gen.—Was there any discourse about a declaration while you was there? Col. Rumsey.—I am not certain whether I did hear something about a declaration there, or Mr. Ferguson reported it to Lord Shaftesbury, that they had debated it. There was some discourse about seeing what posture the guards were in at the Savoy, and the Mews, if they might not be surprised; and, I think, the Duke of Monmouth, Lord Grey, and Sir Thomas Armstrong, undertook to take a view of them. All the company debated it.

Serj. Jefferies.—Did they notice that a rising was intended?

Col. Rumsey.—Yes, the 19th of November was appointed for the rising, I was to be engaged in it. I was to have gone to Bristol, by Lord Shaftesbury's appointment.

Serj. Jefferies.—Did you find the prisoner averse to the proposal of seizing the guards? Col. Rumsey.—He was agreeable to it. Upon my return from them, Lord Shaftesbury said he would be gone, and accordingly he went.

Serj. Jefferies.—If Lord Russell pleases to ask him any questions, he may.

Lord Russell.—I have very few questions to ask, for I know little of the matter. I came there accidentally, to speak with Mr. Sheppard; I was just come to town, but there was no discourse of surprising the guards, nor undertaking of raising an army. I desire to know if I gave any answer to any message about the rising? I was up and down; I do not know what they might say when I was in the room. I was drinking wine.

Col. Rumsey.—Lord Russell discoursed about the rising of Taunton.

Lord Russell.—It was Sir Thomas Armstrong that conversed with Mr. Trenchard. How should I discourse of the rising at Taunton, that knew not the place, nor had any knowledge of Trenchard? I think the witness was asked, if I gave my consent to the rising.

Col. Rumsey.—Yes, my Lord, he did.

Mr. Sheppard was called and sworn.

Mr. Sheppard.—In the month of October last, Mr. Ferguson came to me, in the Duke of Monmouth's name, and desired the convenience of my house for him, and some other persons of quality, to meet there; and in the evening, the Duke of Monmouth, Lord Grey, Lord Russell, Sir Thomas Armstrong, Colonel Rumsey, and Mr. Ferguson came. Sir Thomas Armstrong desired none of my servants might come up; so I fetched wine, and what they wanted. The substance of their discourse was, how to surprise the guards; and in order to that, Lord Grey, the Duke of Monmouth, and Sir Thomas Armstrong, as I remember, went one night to the Mews, or thereabouts, to see the King's guards; and the next time they came to my house, I heard Sir Thomas Armstrong say, the guards were very remiss, and not like soldiers, and the thing was feasible, if they had strength to do it. I remember they met twice, and Lord Russell was there both times, as I remember.

Attor. Gen.—Did they come in their coaches, or on foot, in the night-time? Mr. Sheppard.—It was in the evening; I did not let them in, I saw no coaches. They came in immediately one after another, and went up readily into the room.

Serj. Jefferies.—Had you any particular business with Lord Russell, or he with you? Mr. Sheppard.—Not at that time; but since I have, about the affairs of Lord Shaftesbury.

Serj. Jefferies.—Do you remember any papers read at that time.

Mr. Sheppard.—Yes, somewhat in the nature of a declaration, read by Mr. Ferguson, setting forth the grievances of the nation, in order to a rising. I cannot remember the particulars; it was shewn only, I suppose, for approbation.

Attor. Gen.—Who was it shewn to? Mr. Sheppard.—Sir Thomas Armstrong, as I remember, the Duke was present, and I think Colonel Rumsey.

Col. Rumsey.—No I was not, it was done before I came.

Foreman of the Jury.—Can you say my Lord Russell were there when it was read? Mr. Sheppard.—I cannot say that, but he was there when they talked of seizing the guards. I am sure he was at one meeting about Michaelmas-day; I think he was at both, but I cannot be positive.

Lord Russell.—I never was but once at your house, and there was no such design as I heard of.

Lord Howard was next called and sworn.

Lord Howard dates the origin of this plot from that ferment which was in the city about the election of sheriffs, gives a long account of the application made to him by Capt. Walcott, and his introducing Walcott to Lord Shaftesbury. That he, Lord Howard, was with Lord Shaftesbury when he absconded; that Lord Shaftesbury complained to him, that his design, and the design of the public was obstructed by the unhandsome disappointment of the Duke of Monmouth and Lord Russell, who had withdrawn themselves, not only from his assistance, but from their own engagements. For when he had got such a formed force as he had in London, and expected to have it answered by them in the country, they did recede from it, and told him they were not in a condition to concur with him at that time. This he looked on but as an artificial excuse, and as an instance of their intentions, wholly to desert him. But notwithstanding there was such a preparation made in London, that if they were willing to lose the honour of being concurrent with him, he was able to do it himself, and intended speedily to put it in execution; and said, there were ten thousand brave boys ready to follow him whenever he held up his finger. Lord Howard deposed further, that he went to Moor-Park the next day, where the Duke of Monmouth was; and told him the great complaint Lord Shaftesbury made.

The Duke said, I think he is mad; I was so far from giving him any encouragement, that I told him from the beginning, and so did my Lord Russell, there was nothing to be done by us in the country at that time. He returned to Lord Shaftesbury and told him, the Duke disowned he ever gave him encouragement. Lord Shaftesbury replied, it is false, and I have reason to believe there is some pretended bargain between his father and him to save one another; and said he, we have different prospects, we are for a commonwealth, and he hath no design but his own personal interest, and that will not go down with my people. That he was afterwards with the Duke of Monmouth; who told him Lord Russell had been with Lord Shaftesbury, and put off the day of the rendezvous; but upon condition, that those lords and divers others should be in a readiness to raise the country in a fortnight. That the Duke said he had been at Wapping all night, and never saw a company of bolder and brisker fellows in his life. That he had seen the avenues to the Tower, and did not think it hard in a little time to possess themselves of it.

Lord Russell.—My Lord, I think I have very hard measure; here is a great deal of evidence by hear-say.

Ld. Ch. Justice.—This is nothing against you, I declare it to the jury.

Lord Howard.—About the 17th or 18th of October Captain Walcott came to me, and told me they were resolved positively to rise, and believed that a smart party might perhaps meet with some great men. I met the Duke and told him, there was some dark intimation as if there might be an attempt upon the King's person; that he struck his breast, and with great emotion of spirit, said, "God so kill the King! I will never suffer that." And the day the King came from Newmarket, we had an idea among us that there was a design upon the King; and Lord Grey said, "By God if they do attempt such a thing, they cannot fail;" and we were in great anxiety of mind, till we heard the King's coach was come in. This failing, it was next determined to be done on the 17th of November, the anniversary of Queen Elizabeth: that failing, and Lord Shaftesbury being told things were not ripe in the country, took shipping and got away; and from that time I heard no more of him, till I heard he was dead. After this we considered, we had gone so far, and communicated it to so many, that it was unsafe to make a retreat; and that to manage so great an affair, it would be necessary there should be some general council to take care of the whole; therefore, about the middle of January last, we elected a cabal, consisting of six persons, viz. the Duke of Monmouth, Lord Essex, Lord Russell, Mr. Hampden, jun. Algernon Sydney, and myself;

and about that time we met at Mr. Hampden's house, and it was debated whether the insurrection was most proper to be begun in London or the country. The Duke of Monmouth insisted that it was impossible to oppose a formed force with a rabble hastily got together; and therefore whatever numbers could be gathered in the city, would be suppressed quickly before they could form themselves. Therefore, it would be better to begin it at such a distance from town, where they might have an opportunity of forming themselves, and would not be subject to the fear as in town; where half an hour would convey the news to those forces, that in another half hour would be ready to suppress them. And that it being done at a distance from the town, the King would be put upon this dilemma, either to send down his forces, and leave the city unprotected, or give them time to form in the country if he did not send. We considered what towns and counties were most disposed to action, and what arms and money would be necessary. And the last and greatest consideration was, how we might draw in the Scotch to join with us. About ten days after, the same persons had a meeting at Lord Russell's, and there it was resolved to send some persons to Lord Argyle in Scotland, to settle an understanding with him, and give an account of the state of Scotland. The persons agreed on were, Sir John Cockram, Lord Melville, and another. Colonel Sydney was to take care of that business, and he afterwards told me, he had sent Aaron Smith, and given him sixty guineas for his journey. We considered these meetings might have occasioned some observations upon us, and agreed not to meet again till the return of that messenger.

Attor. Gen.—Did Lord Russell sit there as a cypher, what did he say? Lord Howard.—Every one knows Lord Russell is a person of great judgment, and not very lavish in discourse. We did not put it to the vote, but I took it that all there gave their consent.

Lord Russell.—We were people that met very often; but there was no debate of any such thing, or putting any thing in method. But Lord Howard is a man who hath a voluble tongue, talks very well, and is full of discourse, and we were delighted to hear him.

Attor. Gen.—Aaron Smith went, and Campbell went, for he is here taken.

Mr. Atterbury Sworn.

Atterbury.—I did not apprehend Sir Hugh Campbell myself, but he is now in my custody. He and his son were making their escape out of a wood-monger's house. He owned he had been in town four days, and that, in that time he had been at their lodgings; and that he and his son, and one Bailly came to town together.

Attor. Gen.—Now we have fixed this upon my Lord, we shall give an account that those persons who were to rise, always took them as their pay-masters, and expected their assistance.

Mr. West was sworn.

Mr. West.—As to Lord Russell, I never had any conversation with him. Colonel Rumsey and Mr. Ferguson told me, that Lord Russell intended to go down into the west, and take Mr.

Trenchard's place who had foiled them; and they always said Lord Russell was the man they most depended on, because he was looked upon as a person of great sobriety.

Lord Russell.—Can I hinder people from making use of my name? To have this brought to influence the gentlemen of the jury, and inflame them against me is hard.

Ld. Ch. Justice.—This giving evidence by hearsay, will not be evidence.

Attor. Gen.—It is not evidence to convict a man, but it confirms what the other swears.

Serj. Jefferies.—We have evidence without it, we will not trouble your Lordship any further.

Lord Anglesey was next examined.

Lord Anglesey.—Hearing Lord Bedford was in some distress concerning the affliction of his son, I went to pay him a visit; Lord Howard came in and began to comfort my Lord: he said, you are happy in having a wise son, and a worthy person, one that can never sure be in such a plot as this, or suspected for it: I know nothing against him, or any body else, of such a barbarous design, and therefore your lordship may be comforted in it; and then proceeded to give an account of what he heard Lady Chaworth say to the same effect.

Serj. Jefferies.—As the court will not let us offer hearsays, so neither must we that are for the king permit it.

Mr. Howard was then examined.

Mr. Howard.—I applied myself to Lord Howard in this present issue, on the breaking out of this plot. He took it upon his honour, his faith, and as much as if he had taken an oath before a magistrate, that he knew nothing of any man concerned in this business, and particularly of Lord Russell, whom he vindicated with all the honour in the world; he added, he thought my Lord Russell not only unjustly suffered, but he took God and men to witness he thought him the worthiest person in the world.

Dr. Burnet was next examined.

Dr. Burnet.—Lord Howard was with me the night after the plot broke out, and he did then as he had done before, with hands and eyes lifted up to heaven, say, he knew nothing of any plot, nor believed any, and treated it with great scorn and contempt.

Lord Cavendish called.

Lord Cavendish.—I had the honour to be acquainted with Lord Russell a long time; I always thought him a man of great honour, and too prudent and wary a man to be concerned in so desperate a design, and has expressed himself to have so ill an opinion of Colonel Rumsey, that it is not likely he would intrust him with such a secret.

Dr. Tillotson called.

Dr. Tillotson.—I have been many years acquainted with my Lord Russell, and always judged him a person of great virtue and integrity, and by all the discourse I ever had with him, took him to be a person very far from any such wicked design.

Dr. Burnet testified he always expressed himself against all risings, &c.

Dr. Cox testified he had heard Lord Russell express himself against all kind of risings, and thought it the greatest folly and madness, till things should come in a parliamentary way; and had heard him say of Lord Howard, he was a man of luxuriant parts, but had the luck not to be trusted by either party.

The Duke of Somerset also gave Lord Russell a character for his loyalty, &c.

Foreman of the Jury.—The Jury desire to ask Lord Howard what answer he makes to what Lord Anglesey testifieth.

Lord Howard.—I do confess that I frequently said there was nothing of truth in this: I was at that time to out-face the thing both for myself and my party, and I did not intend to come into this place and act this part. My Lord, I think the religion of an oath is not tied to a place, but receives its obligation from the appeal we make to God; and if I called God and angels to witness to a falsehood, I ought not to be believed now; but your lordship knows that every man that was committed for murdering the king; now I laid hold on this (for I was to carry my knife close between the paring and the apple,) and I did say, if I were an enemy to my Lord Russell and the Duke of Monmouth, and were called to be a witness, I must have declared, in the presence of God and man, that I did not believe either of them had any design to murder the king. I have said this, because I would not walk under the character of a person that would be perjured at the expence of so noble a person's life and my own soul.

Lord Clifford and Mr. Levison Gore were called, and gave Lord Russell a character as to his loyalty, &c.

Mr. Spencer and Dr. Fitzwilliams appeared, and spoke to his character.

Lord Russell then addressed the Court:*

“My Lord: I cannot but think myself very unfortunate in appearing at this place, charged with a crime of the blackest and wickedest nature, and that intermixed and intricated with the treasonable and horrid practices and speeches of other men: and the king's learned counsel taking all advantages, improving and heightening every circumstance against me; and I myself no lawyer, a very unready speaker, and altogether a stranger to proceedings of this kind; besides, naked, without counsel, and one against many; so that I cannot but be very sensible of my inability to make my just defence.

“But you, my lords the judges, I hope, will be equal and of counsel for me; and I hope, likewise, that you, gentlemen of the jury, (though strangers to me), are men of conscience, that value innocent blood, and do believe that with what measure you mete, it shall be measured to you again, either in this, or in another world. Nor can I doubt, but you will consider the witnesses as persons that hope to save their own lives, by their swearing to take away mine.

“But to answer, in short, what is laid to my charge, I do in the

* Life by Lord John Russell.

first place declare, that I have ever had a heart sincerely loyal and affectionate to the king and government (which I look upon as the best of governments,) and have always as fervently wished and prayed for his majesty's long life, as any man living.

"And now to have it intimated, as if I were agreeing or abetting to his murder (I must needs say,) is very hard; for I have ever looked upon the assassination of any private person as an abominable, barbarous, and inhuman thing, tending to the destruction of all society; how much more the assassination of a prince! which cannot enter into my thoughts without horror and detestation; especially considering him as my natural prince, and one upon whose death such dismal consequences are but too likely to ensue. An action so abominably wicked, rash, and inconsiderate, that none but desperate wretches, or mad men, could contrive. And can it be believed that my circumstances, and the past actions of my life considered, I should be capable of being guilty of so horrid a design? Certainly it cannot.

"As for going about to make or raise a rebellion; that, likewise, is a thing so wicked, and withal impracticable, that it never entered into my thoughts. Had I been disposed to it, I never found, by all my observation, that there was the least disposition or tendency to it in the people. And it is known, rebellion cannot be now made here, as in former times, by a few great men.

"I have been always for preserving the government upon the due basis, and ancient foundation; and for having things redressed in a legal parliamentary way; always against all irregularities and innovations whatsoever; and so I shall be, I am sure, to my dying day, be it sooner or later."

Sol. Gen.—The prisoner at the bar stands indicted for high treason, in conspiring the death of the king. The overt-act that is laid to prove that conspiracy and imagination, is the assembling in council to raise arms against the king, and raise a rebellion here. Then he proceeded to repeat the foregoing evidence. Now Lord Russell insists, that admitting these facts be proved upon him, they amount to no more than a conspiracy to levy war, and that is not treason within the statute of the 25th of Edw. III. And if it be only within the statute of the 15th of this king, then it is out of time; that directs the prosecution to be within six months. The statute of the 15th of this king I will not now insist upon, though the clause that says the prosecution shall be within six months, does not refer to treason, but only to the other offences that are highly punishable by that statute: here he repeated the proviso in that statute. But this is high treason within the 25th of Edw. III. To conspire to levy war is an overt-act to testify the design of the death of the King. And the error of Lord Coke hath possibly led his lordship into this mistake. But this hath been determined; it was determined by all the judges, in the case of Lord Cobham, 1 Jac. I. A conspiracy to levy war against the king's person (as this was a conspiracy to seize the guards,) what does that tend to but to seize the king? and that hath always been taken to be high treason. But there are some things called levying war in law, that are not so directly against the king, as if a number of men go about to levy men

to overthrow all inclosures, this, by the generality of the intent, and because of the consequences, is accounted levying war against the king; a conspiracy therefore to levy such a war, which by construction only is against the king, perhaps may not be such an overt-act as to testify the imagination of the death of the king; but other conspiracies to levy war against the king, have always been so taken. It is the resolution of all the judges in Lord Dyer's Reports (the case of Dr. Story,) that a conspiracy to invite a foreign prince to make an invasion, though no invasion follow, is an overt-act to prove the conspiring the death of the king. It is acknowledged by Lord Coke himself, that a conspiracy to invite a foreign prince to invade the kingdom, is a conspiracy against the life of the king: he says, indeed, an overt-act of one treason cannot be an overt-act of another treason; but constant practice is against him in that: for what is more common, than to indict a man for imagining the death of the king, and to assign the overt-act in a conspiracy to raise arms against the king. It was resolved by all the judges in Sir H. Vane's case: it is agreed, that to take the king prisoner, to seize the king, that is a compassing the death of the king; and to sit in council to conspire to effect that, is an overt-act of the imagination of the death of the king; now no man can distinguish this case from that. The consultation was to seize upon the king's guards, that could have no other stop, but to seize upon the king's person, and bring him into their power. As to killing the King, I am apt to think that was below the honour of the prisoner at the bar; but this is equally treason, if they designed only to bring the king into their power till he had consented to such things as should be moved in parliament, it is equally treason, as if they had agreed directly to assassinate him.

Serj. Jefferies.—I will take notice only of one thing to which the noble person at the bar seems to object, viz.: That it is necessary there should be two witnesses to the self-same fact at the self-same time: gentlemen, there is not only the judgment of all the judges of England, but the judgment of the lords in parliament, when, I doubt not, the prisoner at the bar attended in the case of Lord Stafford, wherein one witness gave an account of a conspiracy in England, Turberville of another in France; and by the opinion of all my lords the judges approved in parliament, that was enough, and he was convicted.

The Lord Chief Justice having repeated the most material parts of the evidence, proceeded:—"Now the question before you will be, whether upon this whole matter you do believe my Lord Russell had any design upon the king's life; it is used and given you by the king's counsel, as an evidence of this, that he did conspire to raise an insurrection and rebellion within this nation, and to surprize the king's guards, which, say they, can have no other end but to seize and destroy the King; and it is a great evidence (if Lord Russell did design to seize the king's guards, and make an insurrection in the kingdom,) of a design to surprize the King's person. You have not evidence in this case, as there was in the other matter that was tried in the morning or yesterday against the conspirators to kill the king at the Rye: there was a direct evidence of a consult to kill the king, that is not given you in this case; this is an

act of contriving rebellion and insurrection within the kingdom ; and to seize his guards, which is urged as an evidence, and surely is in itself an evidence, to seize and destroy the king.

“ If you believe the prisoner at the bar to have conspired the death of the king, and in order to that, to have had these consultations that these witnesses speak of, then you must find him guilty of this treason that is laid to his charge.”

The Court then adjourned till four o'clock in the afternoon, when the jury brought the Lord Russell in guilty of the said high treason.*

On Saturday, the 14th of July, Lord Russell was brought to the bar to receive sentence. Upon being asked why judgment of death should not be passed upon him, he requested to have the indictment read. At the words “ of conspiring the death of the King,” Lord Russell said, “ Hold: I thought I had not been charged in the indictment as it is, of compassing and conspiring the death of the King.”

Attor. Gen.—Yes, my Lord.

Lord Russell.—But, Mr. Recorder, if all that the witnesses swore against me be true, I appeal to you and to the court,—I appeal to you, whether I am guilty within the statute of 25 Edw. III., they having sworn a conspiracy to levy war, but no intention of killing the

* It is by no means my intention to discuss at length the legal questions which are involved in the trial of Lord Russell. The first of these questions respects the competency of a jury not composed of freeholders: the second concerns the nature of his offence. By an act of Henry V., no person is to serve on a jury in capital cases, but freeholders to the amount of forty shillings. The crown lawyers argued, that this provision was repealed by the act of the first of Queen Mary; but that act merely repeals all laws creating treasons since the statute of Edward III., and does not at all interfere with the mode of trial. Lord Russell, therefore, was not legally tried. With respect to the second question, whoever will take the trouble to read the act of the 25th Edward III., and look over the various prosecutions which have been brought under it, will be convinced that the present law of high treason is a law of the judges, and not of the legislature. The act provides, that “ treason shall be said,” “ when a man doth compass or imagine the death of our lord the king;” or, “ if a man do levy war against our lord the king, in his realm.” Lawyers have decided that the first of these species of treason extends to any conspiracy to levy war, in order to put any personal restraint upon the king, because the graves of princes are near their prisons; or in order to depose the king, because that is a civil death; or in order to oblige him to alter his measures of government, or remove evil counsellors from about him, because these purposes cannot be effected by open force, without manifest danger to his person.—*Life by Lord John Russell.*

King; and, therefore, I think, truly, judgment ought not to pass upon me for conspiring the death of the King, of which there was no proof by any one witness.

To this the Recorder replied, that it was an exception proper to be made before the verdict; but that the court was now bound by the verdict, as well as the prisoner. Thus, in the state of the law at that time, the prisoner was unable to introduce counsel before the verdict, because that were admitting the fact; and he was excluded from arguing the point after the verdict, because the jury had given judgment on the fact and the law together.

Judgment was then given from the mouth of Sir G. Treby, who had been one of Lord Russell's associates in parliament, in the usual form, with all its disgusting circumstances. The King afterwards changed this sentence into that of beheading; and upon this occasion he is said to have added, with a cool and cruel sarcasm, "Lord Russell shall now find that I am possessed of that prerogative, which, in the case of Lord Stafford, he thought proper to deny me."

Many attempts were made to save Lord Russell's life. It is said that 50,000*l*. (some say 100,000*l*.) were offered by the Earl of Bedford for a pardon, and that the King refused it, saying, "He would not purchase his own, and his subjects' blood at so easy a rate."

In the Duke of Monmouth's Journal, it appears that the King, in conference with Monmouth, falling on the business of Lord Russell, said, he inclined to have saved him, but was forced to consent to his death, otherwise he must have broke with his brother. And when Monmouth was going to remonstrate how cruelly that noble lord had been dealt with, the King bid him think no more of it. It also appears by an extract from Lord Dartmouth's MSS., that his father told the King that pardoning Lord Russell would lay an eternal obligation upon a very great and numerous family, and the taking his life never would be forgotten; that his father being still alive, it would have little effect on the rest of the family, except resentment; and there was some regard due to Southampton's daughter, and her children. The King answered, "all that is true, but it is as true, that if I do not take away his life, he will soon have mine."

The following are the petitions of the Earl of Bedford and Lord Russell, to the King.

“ To the King’s most Excellent Majesty.

“ The humble Petition of William Earl of Bedford :

“ Humbly sheweth ;

“ That could your Petitioner have been admitted into your presence, he would have laid himself at your royal feet, in behalf of his unfortunate son, himself and his distressed and disconsolate family, to implore your royal mercy ; which he never had the presumption to think could be obtained by any indirect means. But shall think himself, wife, and children, much happier to be left but with bread and water, than to lose his dear son for so foul a crime as treason against the best of Princes, for whose life he ever did, and ever shall pray more than for his own.

“ May God incline your Majesty’s heart to the prayers of an afflicted old father, and not bring grey hairs with sorrow to my grave.

“ BEDFORD.”

“ To the King’s most Excellent Majesty.

“ The humble Petition of William Russell :

“ Most humbly sheweth ;

“ That your Petitioner does once more cast himself at Your Majesty’s feet, and implores, with all humility, your mercy and pardon, still avowing that he never had the least thought against your Majesty’s life, nor any design to change the government : but humbly and sorrowfully confesses his having been present at those meetings, which he is convinced were unlawful and justly provoking to Your Majesty ; but being betrayed by ignorance and inadvertence, he did not decline them as he ought to have done, for which he is truly and heartily sorry ; and therefore humbly offers himself to Your Majesty to be determined to live in any part of the world which you shall appoint, and never to meddle any more in the affairs of England, but as Your Majesty shall be pleased to command him.

“ May it therefore please Your Majesty, to extend your royal favour and mercy to your Petitioner, by which he will be for ever engaged to pray for Your Majesty, and to devote his life to your service.

“ WILLIAM RUSSELL.”

A little before he went to eat his last supper, he said to Lady Russell, “ Stay and sup with me ; let us eat our last earthly food together.” He talked very cheerfully during supper on various subjects, and particularly of his two daughters. He mentioned several passages of dying men with great freedom of spirit ; and when a



LORD WILLIAM RUSSELL.



Scene from the play of The Two Gentlemen of Verona

note was sent to his wife, containing a new project for his preservation, he turned it into ridicule, in such a manner, that those who were with him, and were not themselves able to contain their griefs, were amazed. They could not conceive how his heart, naturally so tender, could resist the impression of their sorrow. In the day time he had bled at the nose, on which he said, "I shall not now let blood to divert this: that will be done to-morrow." And when it rained hard that night, he said, "Such a rain to-morrow will spoil a great show, which is a dull thing on a rainy day."

Before his wife left him, he took her by the hand, and said, "This flesh you now feel, in a few hours must be cold." At ten o'clock she left him. He kissed her four or five times; and she so governed her sorrow, as not to add, by the sight of her distress, to the pain of separation. Thus they parted; not with sobs and tears, but with a composed silence; the wife wishing to spare the feelings of the husband, and the husband of the wife, they both restrained the expression of grief too great to be relieved by utterance.

His servant requested he might sit up in his chamber while he slept. This he refused, and was locked up between eleven and twelve, leaving orders to be called at four. When his servant came at that hour, he found him as sound asleep as at any time in his life. As he awoke, he asked what o'clock it was; but whilst his servant was preparing his things for him to dress, he fell asleep again. Dr. Burnet coming in awoke him, saying, "What, my lord! asleep?" "Yes, Doctor," he said, "I have slept heartily since one o'clock." He then desired him to go to his wife, to say that he was well, and had slept well, and hoped she had done so. He remembered himself kindly to her, and prayed for her. He dressed himself with the same care as usual; and said, he thanked God he felt no sort of fear or hurry in his thoughts. He prayed several times with Dr. Burnet, and afterwards with Dean Tillotson; and, at intervals, went into his chamber, and prayed by himself. Once he came out, and said he had been much inspired in his last prayer, and wished he could have written it down and sent it to his wife. He gave Dr. Burnet several commissions to his relations; but none more earnest than

to one of them, against all revenge for what had been done to himself: he told Burnet he was to give him his watch; and as he wound it up, he said, "I have done with time: now eternity comes."

About nine in the morning, of Saturday, July 21, the sheriffs went to Newgate, to see if Lord Russell was ready; and in a little time his lordship came out, and went into his coach, taking his farewell of his lady, Lord Cavendish, and several other of his friends at Newgate; in the coach were Dr. Tillotson, and Dr. Burnet, who accompanied him to the scaffold built in Lincoln's-inn-fields, which was covered all over with mourning. As the carriage turned into Little Queen Street, he said, "I have often turned to the other hand with great comfort, but now I turn to this with greater." As he said this, he looked towards his own house, and Dr. Tillotson saw a tear drop from his eye. Just as they were entering Lincoln's-Inn-Fields, he said, "This has been to me a place of sinning, and God now makes it the place of my punishment." He wondered to see so great a crowd assembled. He had before observed, that it rained, and said to his companions, "This rain may do you hurt that are bare-headed." Being arrived upon the scaffold, his lordship bowed to the persons present, and turning to the sheriff made the following speech.

Mr. Sheriff,

"I expected the noise would be such, that I should not be very well heard. I was never fond of much speaking, much less now; therefore I have set down in this paper all that I think fit to leave behind me. God knows how far I was always from designs against the King's person, or of altering the government. And I still pray for the preservation of both, and of the protestant religion."

Mr. Sheriff, I am told, that Captain Walcott yesterday said some things concerning my knowledge of the plot. I know not whether the report is true or not.

Mr. Sheriff.—I did not hear him name your Lordship.

Writer.—No my Lord, your Lordship was not named by any of them.

Lord Russell.—I hope it is not so; for, to my knowledge, I never saw him, nor spoke with him in my whole life; and in the words of a dying man, I profess I know of no plot, either against the King's life, or the government. But I have now done with this world, and am going to a better. I forgive all the world heartily, and I thank

God I die in charity with all men; and I wish all sincere protestants may love one another, and not make way for popery by their animosities. I pray God forgive them, and continue the protestant religion amongst them, that it may flourish so long as the sun and moon endure. I am now more satisfied to die than ever I have been.

Then kneeling down, his lordship prayed to himself, after which Dr. Tillotson kneeled down and prayed with him; which being done, his lordship kneeled down and prayed a second time to himself, then pulled off his peruke, put on his cap, took off his cravat, and coat, and bidding the executioner, after he had lain down a short moment, do his office without a sign, he gave him some gold; then embracing Dr. Tillotson and Dr. Burnet, he laid him down with his neck upon the block.

The executioner missing at his first stroke, though with that he took away life, at two more severed the head from the body. The executioner held up the head to the people, as is usual in cases of treason, &c., which being done, the Sheriff ordered his lordship's friends or servants to take the body, and dispose of it as they pleased, being given them by his Majesty's favour and bounty.

Thus died William Lord Russell, on the 21st of July, 1683, in the 44th year of his age. Few men have deserved better of their country. Though not remarkable for very brilliant talents, he was a man of solid judgment; and was never led astray, by any curious sophistry, to confound the perceptions of right and wrong; to mistake slavery for duty; or to yield to power the homage which is due to virtue. He was a warm friend, not to liberty merely, but to English liberty; a decided enemy, not only to regal encroachment, but to turbulent innovation. He was a good son, a good husband, a good father, and united mildness of domestic affection with severity of public principle.

The political opinions of Lord Russell were those of a Whig. His religious creed was that of a mild and tolerant Christian. If, as it must be admitted, he showed a violent animosity to the Roman Catholics, to an extent which cannot be justified, it must be recollected, that his hostility was almost entirely political. But whatever blame may attach to Lord Russell for an excess of poli-

tical and religious zeal, it cannot be denied that his firmness and perseverance were eminently useful to his country, in a most critical period of her fortunes, and that his example contributed to the establishment of those liberties which he died to vindicate.

When William obtained the throne at the Revolution, five years after, he amply fulfilled the promises he had so generously made. The second act he passed was one for reversing the attainder of Lord Russell, in the preamble of which his execution is called a murder. In 1694, he created the Earl of Bedford a duke, and amongst the reasons for conferring this honour, it is stated, "That this was not the least, that he was the father to Lord Russell, the ornament of his age, whose great merits it was not enough to transmit by history to posterity, but they (the king and queen) were willing to record them in their royal patent, to remain in the family as a monument consecrated to his consummate virtue, whose name could never be forgot, so long as men preserved any esteem for sanctity of manners, greatness of mind, and a love to their country, constant even to death. Therefore, to solace his excellent father for so great a loss, to celebrate the memory of so noble a son, and to excite his worthy grandson, the heir of such mighty hopes, more cheerfully to emulate and follow the example of his illustrious father, they intailed this high dignity upon the earl and his posterity." When the bill for reversing the attainder before mentioned came down to the House of Commons, Mr. Finch endeavoured to justify the part he had taken in the trial; but this only excited the indignation of the House. It was moved by Sir Thomas Clarges, to leave out the words in the bill "it is at the request of the Earl of Bedford and Lady Russell only," because the justice of the nation was of more importance than the wishes of any private person.

In November, Algernon Sydney was brought to trial, as detailed in the next volume. He was much more severely used than Lord Russell had been; and the trial exhibits a strange and unnatural contrast between the violence, the injustice, and the brutality of the judge; and the calmness, the pointed reasoning, and the heroic fortitude of the prisoner.

The Duke of Monmouth was persuaded, by Lord Halifax, to make his confession. He did this in a letter, in very general terms ; but being told that he might hurt Mr. Hampden, and others of his friends, he went to the king, and desired to have it back. The king gave him his letter, but accompanied it with some severe expressions, and forbade him the court. He retired to Holland, where he was treated by the Prince of Orange with particular respect.

Not even a scrap of old writing could be found to corroborate the evidence of Lord Howard against Hampden ; but the crown lawyers thought proper to try him for a misdemeanor, for which one witness is sufficient. To convert the acts for which Russell and Sydney had been beheaded into a misdemeanor, seems strikingly absurd ; but a fine of 40,000*l.*, which was equivalent to imprisonment for life, shows the intention of the royal brothers. After this sentence, he was confined in different prisons, and all his real and personal property sequestered, till Monmouth's unsuccessful attempt. At that time Lord Grey consented to become a second witness against him ; but some of his friends having raised six thousand pounds, which they offered to Jeffries and Mr. Petre, obtained his pardon, on condition that he should plead guilty. Dalrymple, who was perfectly aware of these facts, mixes them up, as usual, with romance. He attributes it to the unpopularity which Sydney's trial had brought on the government, that Hampden was not at first tried for his life ; and he suppresses the fact of 6000*l.* having been given for his pardon, in order to insert the following passage, which is a mixture of odious misrepresentation and affected sentiment :—" In despair he pleaded guilty. It was a sad spectacle to the generous of all parties, to see the grandson of the great Hampden entreating the meanest of mankind to interpose with the king for his life. Satisfied with the humiliation, because it was worse than death, Jeffries obtained his pardon from James."

In 1684, Holloway, who had been sent home, confessed all he knew, refused a trial, and was executed. He hinted, at his death, that had he chosen to discover more than was true, he might have saved his life. His discoveries produced an impression unfavourable to the belief of the plot.

This impression was strengthened by the last words of Armstroug, who was taken in Holland, and condemned on a sentence of outlawry. He asked in vain for a trial, on the ground that the year allowed for him to come in was not expired, so that he might have surrendered himself voluntarily some months afterwards. When he asked for the benefit of the law, and said he demanded no more, Jeffries answered, with a savage repartee, "That you shall have, by the grace of God. See that execution be done on Friday next, according to law. You shall have the full benefit of the law."

By an order in council of October 22, 1683, the king ordered the laird of Cesnock, and his son, the lairds of Rowallan, elder and younger, Crawford of Crawfordland, Fairly of Brunsfield, Alexander Monro of Beacrofts, Baillie of Jerviswood, Mr. William Carstairs, Hepburn, son to Major Hepburn, and Spence, servant to the Earl of Argyle, to be sent prisoners to Edinburgh, to be tried according to the law of Scotland.

Sir Hugh Campbell, of Cesnock, was indicted in February, 1684, not for the Rye-House plot, but for harbouring rebels in the rising of Bothwell Bridge. For the purpose of convicting him, two witnesses were brought, Ingrham and Crawford. When Ingrham was brought in, and was holding up his hand to swear, Cesnock, addressing him, said, "Take heed now what you are about to do, and damn not your own soul by perjury; for, as I shall answer to God, and upon the peril of my own soul, I am here ready to declare I never saw your face before this process, nor spoke to you." This appeal had such an effect on both witnesses, that they deposed nothing against him; and, notwithstanding the angry endeavours of the judge to draw evidence out of them, the jury would hear no more, and the prisoner was acquitted.

Notwithstanding this verdict, the two Campbells were sent back to prison; and being afterwards condemned by the Scotch Parliament, James the Second annexed their lands to the crown, and confined them as prisoners at the Isle of Bass.

Spence, upon whose person some letters, written in cyphers, were found, was offered his pardon, if he would read them. He refused to do so; but would not say upon oath that he could not. Upon this, he was

tortured and put in the boots, and then being delivered into the hands of General Dalziell, he was by means of a hair shirt and pricking, kept without sleep, as it was said, for five nights. All this proving ineffectual he was tortured with thumbikins, a new discovery, reported to have been brought by Generals Dalziell and Drummond from Muscovy. These barbarous means at length forced from him a confession, in which he owned, amongst other particulars, that Mr. William Carstairs, a clergyman who was in custody, had one of the three keys which were necessary to explain the cypher. This led to the torture of Carstairs. He withstood the pain once without shrinking, but the next day he confessed, upon conditions. The conditions, the same as those which had been obtained by Spence, were, that he should have a pardon for himself, and should not be brought as a witness against others. With all this, his confession did not satisfy his enemies. Witnesses were not yet obtained; but the information of which the government was in possession, enabled them so to work on the fears of Lord Tarras, and Murray of Philiphaugh, that they were brought to appear against Baillie of Jerviswood. Baillie was at this time so ill, that it was thought he could not live long. Though his wife offered to be put in irons, if she might remain in prison with him, he was denied that comfort; and even his daughter, at that time only twelve years of age, was not allowed to see him. He was required to purge himself, by oath, from the charge of having any concern in the Rye-House plot. When he refused to do this, though in general he protested his innocence, so heavy a fine was imposed upon him as to amount to a sentence of imprisonment for life. But the court, not satisfied as long as Baillie lived, had no sooner prevailed on Lord Tarras and Murray to give evidence against him, than they brought him to trial for his life. The garbled confession of Carstairs, which they had promised not to make use of as evidence, was produced, and two clerks of council brought to swear to its accuracy. He was found guilty, and executed in great haste, lest death should prevent the work of vengeance.

On the day preceding Lord Russell's execution, Walcot, Hone, and Rouse were executed. Walcot laid the contrivance of the plot upon Rumsey and West.

But it is better to give his own words, that no mistake may be made:

"I confess I was so unfortunate and unhappy as to be invited by Colonel Rumsey (one of the witnesses against me) to some meetings, where some things were discoursed of, in order to the asserting our liberties and properties, which we looked upon to be violated and invaded. But it was he, and Mr. West, and some gentlemen that are fled, who were the great promoters of those meetings. I was near a quarter of a year ill of the gout, and, during that time, Mr. West often visited me, and still his discourse would be concerning 'Lopping the two sparks;' that was the word he used, meaning the king and the duke; and proposed it might be done at a play. This was his frequent discourse; for he said, then they would die in their calling; it was his very expression. He bought arms to do it with, without any direction of mine; I never saw the arms, nor I never saw the men that were to do it; though they said they had fifty employed to that end. I told several of them, that the killing the king would carry such a blemish and stain with it, as would descend to posterity; that I had eight children, that I was loath should be blemished with it; and withal I was confident the Duke of Monmouth would revenge his father's blood, if it were but to vindicate himself from having any hand in it. Mr. West presently told me that the Duke of Monmouth did not refuse to give an engagement, that he would not punish those that should kill the king."

Hone, who appears to have been a weak man, confessed he had been drawn in, and quoted the words of scripture, "Thou sawest a thief, and thou consentedst to him." He said he had never been at any of the clubs. He owned he had said, he had rather kill the king, and save the Duke of York; but when asked if he had rather a papist should reign over us, he said, he did not know what to say to that.

Rouse gave a very long detail, but reported nothing except on hearsay. He had been told by one Leigh, (one of the witnesses against him,) that Goodenough had a design to secure the King's person without shedding blood. Rouse, as well as the other two, accused the witnesses against him of being the most forward to incite others.

Lord Russell was much rejoiced, when he heard what these men had said; and considered it would destroy all the credit hitherto given to the witnesses.

Holloway was asked, at his execution, if he was ever acquainted with Lord Russell; to which he replied in the negative.

The solemn denial of Armstrong is still more weighty. Though he had lived a dissolute life, his last days were spent in prayer and thoughts of a future state; "his pride and his resentments," says Burnet, "were subdued and forgotten." From such a man, we may expect the truth. He says, in the paper he delivered to the sheriff, "I take God to witness, I never was in any design to take away the king's life; neither had any man the impudence to propose so base and barbarous a thing to me; neither was I ever in any design to alter the government of England. What I am accused of, I know no otherwise than by reports, and prints; which I take to be uncertain. So that it cannot be expected I should make particular answers to them. If I had been tried, I could have proved my Lord Howard's base reflections upon me to be a notorious falsehood; for there were at least ten gentlemen, besides all the servants in the house can prove I dined there that day." *

It will be remembered, that Colonel Rumbold, who by marrying a maltster's widow, had become the proprietor of the Rye-House, was accused of having lent his house for the assassination. Rumbold, covered with wounds, and defending himself with uncommon exertions of strength and courage, was at last taken. However desirable it might have been thought, to execute in England a man so deeply implicated in the Rye-House plot, the state of Rumbold's health made such a project impracticable. Had it been attempted, he would, probably, by a natural death, have disappointed the views of a government, who were eager to see brought to the block, a man whom they thought, or pretended to think, guilty of having projected the assassination of the late and present king. Weakened as he was in body, his mind was firm, his

* Lord Howard had accused him of being absent on that day, on an expedition to interrupt the king and duke. Burnet is mistaken in saying that Armstrong denied having been engaged in any design against the government. His words, as we see above, were "to alter the government."

constancy unshaken; and notwithstanding some endeavours were made by drums and other instruments, to drown his voice when he was addressing the people from the scaffold, enough has been preserved of what he then uttered, to satisfy us, that his personal courage, the praise of which has not been denied him, was not of the vulgar or constitutional kind, but was accompanied with a proportionable vigour of mind. Upon hearing his sentence, whether in imitation of Montrose, or from that congeniality of character, which causes men, in similar circumstances, to conceive similar sentiments, he expressed the same wish which that gallant nobleman had done; he wished he had a limb for every town in Christendom. With respect to the intended assassination imputed to him, he protested his innocence, and desired to be believed upon the faith of a dying man; adding in terms as natural as they are forcibly descriptive of a conscious dignity of character, that he was too well known for any to have had the impudence to make such a proposition to him.

THOMAS PILKINGTON AND SAMUEL SHUTE,
SHERIFFS,
HENRY CORNISH, ALDERMAN,
FORD LORD GREY, OF WERK,
SIR THOMAS PLAYER, KNT. CHAMBERLAIN OF
LONDON,
SLINGSBY BETHEL, ESQ. FRANCIS JENKS,
JOHN DEAGLE, AND OTHERS.

FOR A RIOT, &c. AT GUILDHALL, LONDON, MAY 8, 1683.

AN information was preferred against the defendants, by Sir Robert Sawyer, attorney-general, setting forth,

“That on the 24th of June then last past, a common-hall was summoned by Sir John Moore, Knt. Lord Mayor of London, and thereupon held for the election of sheriffs, for the year ensuing; and that on the said 24th of June, the said Sir John Moore adjourned the court till the Tuesday following, by proclamation, and commanded all persons to depart. But the defendants, intending to disturb the peace, after the said adjournment, did unlawfully, with

many other persons, continue together, and riotously assault the Lord Mayor. And the said Pilkington and Shute, by colour of their office, as sheriffs, with the rest of the defendants, did continue the poll, declaring to the people, that Sir John Moore, the Lord Mayor, had no power to adjourn the poll, and continued this great tumult for two hours, to the terror of the king's subjects," &c.

The great question being, whether the sheriffs had a right to call, or adjourn the Common-Hall? it appeared even by Sir Robert Clayton and the defendants' own witnesses, that the Lord Mayor always called those halls, for the election of sheriffs, and adjourned them; and that no sheriffs had ever done either.

Proof also was made, that the Lord Mayor actually adjourned the said court, held on the 24th of June last, from Saturday to Tuesday following; and when the cryer said, God save the King, the disaffected mob hissed. And as the Lord Mayor came out of the hall, he was thrown down by them, and his hat struck off; and that he was in great danger of his life. That when he was got out, he commanded the people to go home; but Shute and Pilkington, and the other rioters, continued the poll a great while after, notwithstanding. And some of their associates cried out, No God bless the King; down with the sword; no Lord Mayor; press on, press on; God save the sheriffs. And all the defendants, above-named, were proved to be among the rioters.

The counsel for the defendants, Mr. Williams and Sir Francis Winnington, observed, That it was not proved, that any of the defendants spoke the words mentioned; and should it be admitted that the Lord Mayor had the right of adjourning the poll, and the sheriffs had not, but were in the wrong in continuing the poll after his lordship had adjourned it; yet it would be hard to make a riot of it, since they only proceeded on a mistake of their right.

Mr. Attorney-General observed on the other side, That now the right of the Lord Mayor, to call and adjourn these assemblies, evidently appeared. And that it was as much a riot to continue the multitude together, after they were legally dismissed, as it would have been to call them together, when they had no authority to do it. It was usurping an authority in the city, contrary to the King's charter. As the chief magistrate made a proclamation for them to depart, and they staid together

afterwards, and disorders happened, this was a riot; and if no disorder had happened, it would have been a rout, and unlawful assembly, if they had continued together. And should it be admitted, the defendants themselves committed no particular outrage; yet their being there, and countenancing the riot, made them guilty of it.

The Chief Justice, in his directions to the jury, said, It was no excuse to say they were ignorant of the law; it was nevertheless a riot. If the defendants were really ignorant, that was to be considered when they came to set the fines; but these gentlemen could not be ignorant of this, because it was the constant practice, before their eyes, for the Lord Mayor to adjourn these assemblies. But though it was so before, they would not have it so now. They would have No Tory Mayor, no God bless the King; but would bless only their protestant sheriffs. The King must be put out of his throne, to put the two sheriffs into it. And though it was not proved that any of the defendants said these words, yet they were the men that kept this rabble together three hours.

The jury withdrawing, after a short recess, found all the defendants, above-named, *Guilty* of the riot. Whereupon Pilkington was fined 500*l.*, Shute 1000 marks, Lord Grey 1000 marks, Player 500 marks, Bethel 1000 marks, Cornish 1000 marks, Jenks 300 marks, Freeman 300 marks, Goodenough 500 marks, Deagle 400 marks, Key 100 marks, Wickham 100 marks, Swinnock 500 marks, and Jekyll 200 marks.

As many of the defendants, as were living at the revolution, and the executors of those that were dead, procured this judgment to be reversed by writ of error in parliament. They also presented a petition to King William, suggesting that they were convicted of this pretended riot, by the contrivance of Sir John Moore, Lord Mayor, Sir Dudley North, Sir Peter Rich, and Sir Edmund Saunders, late Chief Justice of the King's-Bench; and prayed they might be excepted out of the act of grace.

SIR PATIENCE WARD,

FOR PERJURY,

IN THE COURT OF KING'S BENCH,

MAY 19th 1683.

AN information was brought by Mr. Attorney-general, Sir Robert Sawyer, against Sir Patience Ward, setting forth,

"That whereas the most illustrious James Duke of York, the King's only brother, had brought an action de Scandalis Magnatum, against Thomas Pilkington, for speaking the following scandalous words, viz. he (meaning the Duke) hath burnt the city, and is come to cut our throats. The said Sir Patience did falsely and corruptly swear, at the trial between the Duke and the said Pilkington, that there was no mention of the Duke of York, or of cutting of throats, while the said Pilkington was in the room, where those words were charged to have been spoken. That the discourse about the Duke of York was over before Pilkington came in, and that the Duke of York was not named. Whereas in truth, there was mention made of the Duke of York, and of cutting of throats; and the discourse concerning the Duke of York, was not over when the said Pilkington came into the room."

The witnesses being called, Mr. Hatch deposed, that Sir Patience did positively affirm, upon his oath, at the said trial between the Duke and Pilkington, that Pilkington did not come in, till all the discourse was over about the Duke. And did further depose, that there was a discourse about burning the city by the papists; and Pilkington said, he hath burned the city. Whereupon he (Sir Patience) took him by the shoulder, saying, explain yourself, you mean Hubert, the person that was hanged for firing the city; and Pilkington answered, yes. And that Sir Patience did positively depose further, that there was no mention made of cutting of throats.

Mr. Wood deposed, that Sir Patience, at the said trial did affirm positively, or upon his oath, that the discourse concerning the Duke of York was over, before Pilkington came in; and that there was no mention of cutting of throats.

Sir James Smith, Alderman, deposed, that Sir Patience did positively, or upon his oath, say, at the aforesaid trial, that Mr. Pilkington was not there while they were discoursing concerning going to St. James's the residence of the Duke, declaring the Duke was not talked of. Whereupon the Chief Justice Pemberton applying himself to Sir Harry Tulse, Sir Harry made answer, I am very sorry to say it, he was there all the while.

Sir John Peake deposed, that Sir Patience affirmed, either positively, or upon his oath, that Mr. Pilkington was not by, while the Duke of York was mentioned.

Sir Thomas Field deposed, that Sir Patience said, that Mr. Pilkington was not in the room when any thing was spoken relating to the Duke of York.

Sir Francis Butler, who was foreman of the jury, at the trial between the Duke and Pilkington, deposed, that the great question at that trial was, whether the words, "firing the city," related to the Duke of York, or not; and Sir Patience deposed, they did not relate to the Duke of York, and would prove that Alderman Pilkington was not in the room, while they discoursed of the Duke of York; that this he swore positively, to the best of his remembrance, he heard no qualification. That after the jury went out of court, they debated the matter among themselves; and they should have laid a little more weight on the evidence of Sir Patience, if he had not sworn, that when Sir William Hooker took some exceptions at Pilkington's words, and asked, what do you mean? he (Sir Patience) laid one hand upon Pilkington's mouth, and the other upon his breast, and demanded also, what do you mean? and answer was made, Hubert. This made the jury believe his evidence ought to be set aside.

Sir Harry Tulse, Alderman, deposed, that on the 10th of April, according to an order of court made the day before, they (the Aldermen) met at Guildhall, where were present Sir William Hooker, Sir Patience Ward, Sheriff Pilkington, and himself. And Alderman Pilkington said, "He burnt our city, and is come, or will come, to cut our throats." This evidence he, Sir William Tulse, gave at the trial between the Duke and Pilkington, and now averred that it was true. He testified further, that he was asked at that trial, what was the preceding discourse? He answered, it was concerning an order for going to St. James's, or to the Duke of York; some complained of that order, and would have had it re-debated. Whereupon he (Sir Harry) answered, it was too late now, for the court had agreed to it; and then Pilkington said those words, "He hath burnt our city, and is come, or will come to cut our throats."

It being demanded of Sir Harry, if the Duke was named? he answered, he could not positively say he was named at that time, for the debate was about the order made, to congratulate the Duke of York, or of going to St. James's; one of them he was sure was named.

The Chief Justice demanding of Sir Harry, who he understood Pilkington meant, when he said, "he is, or will come to cut our throats." Sir Harry answered, in his opinion it was the Duke of York.

Sir William Hooker deposed, that Pilkington, standing at the end of the table, in the room where the Aldermen were met, did say, "hath he burnt the city? and is he come to cut our throats?"

It being demanded, if the Duke of York was named? Sir William answered, he (Sir William) did name the Duke of York to Pilkington, after those words were

spoken. And being further asked, if it was plain, Pilkington meant the Duke of York, when he said those words? Sir William answered, nothing could appear more plain, for the discourse was about that matter, and nothing else; and that Sir Patience Ward was there all the time.

The defendant's counsel urged in his behalf, that Sir Patience did not swear any thing positively at the trial, between the Duke and Pilkington; but qualified his evidence, by swearing, as he believed, or according to the best of his memory, and consequently could not be perjured, and brought several witnesses, and some that took notes at that trial, who testified, that Sir Patience frequently made use of qualifying expressions at that trial, viz. as he believed, or remembered. They brought also a great many witnesses to swear, that Sir Patience was a gentleman of a fair character, and not likely to perjure himself.

But after the defendant's counsel had produced all their witnesses, the king's counsel called Sir Francis Lee, who was upon the jury between the Duke and Pilkington; and Sir Francis being sworn, gave the following account of the matter. viz. that Sir Patience did swear at that trial, that Mr. Pilkington was not in the room, when the discourse concerning the Duke of York was mentioned. And he afterwards swore, that when Mr. Pilkington said, "he hath burnt the city," he (Sir Patience) clapped one hand on his mouth, and the other on his breast, and bid him explain himself, who he meant, Hubert? That Sir Francis Butler the foreman, thereupon jogged him (Lee) and bid him take notice of that. And that they inferred Mr. Pilkington must mean the Duke of York; for else why would Sir Patience have stopped his mouth?

The Chief Justice having summed up the evidence, the jury withdrew, and, after some time, brought the defendant in guilty; who, having received some intimation that it was intended to set him in the pillory, absconded.

THOMAS PAPILLON, Esq.

FOR ARRESTING SIR WILLIAM PRITCHARD, LORD MAYOR,
Nov. 6, 1684.

The declaration set forth,

"That whereas, the 12th of February, 1684, the plaintiff was Mayor of the City of London, being duly elected and sworn into the office. And whereas, according to the custom of the said city, time out of mind, he ought daily to attend the said office, and execute the same according to the honour and dignity that belongeth thereunto. That the defendant, Thomas Papillon, being one of the commonality of the said city, and under the government of the plaintiff, by virtue of his office aforesaid; not being ignorant of the premises, and falsely and maliciously, envying the happy estate of the plaintiff in his said office, and contriving unjustly to disturb him in the execution thereof; the said 12th day of February, the defendant, in order to vex the plaintiff, not having any lawful or probable cause of action against him, did falsely and maliciously prosecute the King's writ of *alias capias*, out of the Court of King's Bench, against the plaintiff, directed to the then coroner of the City of London, and returnable, &c. pas. then next following, to answer the now defendant in a plea of trespass; and that afterwards, viz. the 24th of April, he delivered the said writ to John Brome, Gent. then coroner of the said city, and caused the plaintiff, then being Mayor of the said city, in the parish of St. Mildreds, in the Poultry, in the ward of Cheap to be taken and arrested, and detained in prison under the custody of the said coroner, for the space of six hours, to the disgrace and scandal of the plaintiff and his said office, as also the manifest damage, prejudice and grievance of the plaintiff. Whereas in truth, and in fact, the defendant at the time of the taking, arresting, and detaining of the plaintiff in prison, as aforesaid, had not any just or probable cause of action against the plaintiff in the premises; whereby the plaintiff says he is injured, and which he lays to his damage 10,000l."

To which the defendant pleaded *Not Guilty*.

Mr. Munday opened the declaration, and Mr. Attorney shewed that his action was brought by the defendant, with a design to have created a disturbance and confusion in the city, in order the better to carry on the plot against the King, and his brother the duke.

Mr. Keeling was sworn,

¶ Solicitor Gen.—Pray tell my Lord and the jury, if you were made a special bailiff to arrest Sir William Pritchard when he was Lord Mayor, and what you did upon it?

Keeling.—Mr. Richard Goodenough had sent me a letter to meet him at Mr. Russel's, a cook-shop in Ironmonger-Lane; and accord-

ingly the 24th of April I met him, and several others there. And I went away a little while and came again; and while I was gone, they put my name into the warrant, and when I came back again, Mr. Richard Goodenough told me I must be concerned in the business of arresting the then Lord Mayor, Sir William Pritchard; and when I made a difficulty of it, he pressed me to do it, and said it would be taken ill by the party if I refused it; he meant, I suppose, the discontented party, the faction, or what you please to call it, that were not contented with the government of the city at that time. He urged it upon me with a great many arguments, and at last prevailed upon me to go along with the coroner; and Frank Goodenough, his brother, said he would go with me. The Lord Mayor was at Grocers-Hall, where he kept his mayoralty; when we went to arrest him, there was some disturbance upon it, among the officers and people there. The coroner came up to him, and said, Sir, I have a writ against you; I pray you would please to give an appearance, at the suit of Mr. Thomas Papillon, and another at the suit of Mr. John Dubois; and some words there passed between him and the coroner. And the Lord Mayor refusing to give any appearance, the coroner Mr. Brome, bid us execute our warrants; upon which, I came up to the Lord Mayor, and touched him on the shoulder; and said, I arrest you at the suit of Thomas Papillon, Esq., and one Ferdinando Burley arrested him again, at the suit of Mr. John Dubois. Then the coroner dismissed us, and as I take it, carried him home to his house.

Sol. Gen.—How many might there be at Russell's, when you had orders to arrest the Lord Mayor?

Keeling.—I believe there were about thirty or forty. About six weeks, or two months before this meeting at Russell's, Mr. Goodenough was at me to be concerned in this matter: Mr. Ashurst, Alderman Cornish's son-in-law was by then, but I did not comply. They told me the Lord Mayor and court of Aldermen had made an ill return to the mandamuses that were served upon him, for the swearing of Mr. Papillon and Mr. Dubois, sheriffs, and therefore Mr. Papillon and Mr. Dubois had good cause of action against him; and Goodenough said he had orders from them to arrest my Lord Mayor, and desired me to assist him, but they did not proceed then, because my lord and his brethren were gone out of town to wait upon the King, I think.

Sir Henry Tulse examined.

The council for the defendant objected to his being a witness, for that he and the rest of the court of Aldermen had made a purse to carry on this suit. But Sir Harry being examined upon a Voyer dire, said he knew nothing of it, and he was admitted to be sworn.

Mr. Holt.—Pray give an account what you know of this matter.

Sir Henry Tulse.—About four o'clock in the afternoon this Mr. Keeling and two more came to my house, and Keeling arrested me at the suit of Mr. Papillon, and another of them arrested me at the suit of Mr. Dubois, and told me I must give an appearance. I said, I would consider of that; then they told me I must go to the Lord

Mayor, who was in the coroner's custody: but afterwards they said, they would take my word till next morning, and went away. I went down to Skinners-Hall, and found the Lord Mayor there, but no Aldermen, only his officers; and he told me he was arrested by the coroner. There was presently a great noise all about the city concerning the Lord Mayor's being arrested, and abundance of people were gathered together about the door; but there came a company of the trained bands, and kept all quiet. I asked Mr. Brome, the coroner, if I was a prisoner too, for I had been arrested by a warrant pretended to come from him. He said, he had a writ against me, and now I was there, he could not let me go till I had given an appearance. So I agreed to be detained there with the Lord Mayor in custody, and staid as long as he staid; and then went away with him, which was about eleven o'clock.

Mr. Wells, the common crier sworn.

Mr. Wells.—I was not in the hall with the Lord Mayor, but in another room adjoining; and the officers came and told me I must come to the Lord Mayor quickly, for he was arrested. When I came, the Lord Mayor bid me take the sword and go along with him, for the sword bearer was not just at hand. The coroner said, he was his prisoner and must go along with him to his house. The Lord Mayor bid me send out the officers to summon a lieutenantancy, which I did. I desired the coroner and his men to be gone. He said, except my Lord would give an appearance, he must go along with him to his house, and thither we went, where my Lord was put into a little room, where were none but myself and the coroner as I remember. His lordship bid me go and see for Sir James Edwards, and Sir Harry Tulse, and the present Lord Mayor; so I went, but found they were arrested before I came.

Ld. Ch. Just.—How did his lordship go away from thence.

Mr. Wells.—In his coach. Mr. Brome, the coroner, was not there when his lordship went away, but there was Goodenough.

Attor. Gen.—The soldiers having prevented the design, they let him go again.

Sir John Peak sworn.

Sir John Peak.—My Lord, I had orders from the lieutenantancy to raise my regiment, upon the news of the Lord Mayor's being arrested; and I came with my soldiers to Skinners-Hall, where I heard the Lord Mayor was, and prevented any stir, as it was feared there would have been; but Mr. Keeling, I believe, can tell something more of the design than he has spoken; for I remember, at the trial of the traitors in the Old Bailey, he said, that after the Lord Mayor was arrested, they intended something, but their hearts failed them when the regiment was up.

Mr. Serj. Maynard.—My Lord, I am of counsel in this case for the defendant Mr. Papillon. This is an action upon the case, wherein the plaintiff declares, that the defendant arrested him, being then Lord Mayor, without any probable cause, and out of malice. Now, my Lord Mayor, if he mistakes in his office, and does that which belongs not to him to do; if he does any man an injury, or does that which is not right in his office, by which another person is

grieved, he is as much subject to actions, and to the process of law, as any private man in the City of London; and if we can give you any account of a probable cause for the arrest, that is sufficient to justify us from this action.

Here is a great noise of damage and disgrace to the plaintiff, and his office, and he has been pleased to reckon his own damages at 10,000*l.*, but we say he has sustained no damage by any thing we have done, and we are *Not Guilty* of this unreasonable and malicious prosecution laid to our charge.

Mr. Williams spoke to the same effect, and after him Mr. Ward, who said that the defendant had declared against the plaintiff in the action above-mentioned, and designed to proceed, but that the right of election had been since determined against him, at the late trial of the rioters, and thereupon he desisted.

The Lord Chief Justice replied, that Mr. Ward did not understand the question, and that the right of election was not determined there.

Mr. Ward.—My Lord, if your Lordship would please to hear me, I would explain myself, I hope to your lordship's satisfaction.

Ld. Ch. Just.—Hear you, why I did not interrupt you, man, till you came to launch out into extravagant things, that did not at all concern the cause. Keep close to the question we come here to try, and I will hear you as long as you will. The single question is here, Whether there were probable cause for your arresting the plaintiff, or not?

Mr. Ward.—My Lord, we did apprehend, I say, that we had a probable cause; but when we found our mistake, we discontinued our action, paid costs, and have a receipt to shew for them. This was it I was saying.

Their witnesses were then called, and Mr. Brome was sworn.

Brome, the coroner, deposed, That a Latitat and Capias were brought to him by Mr. Goodenough, and that he waited several times on the Lord Mayor for an appearance, but could not obtain it; and that he had directions from Mr. Goodenough, Mr. Papillon's attorney, not to arrest the Lord Mayor, if he could procure an appearance without. That after he had made out warrants on the alias capias, and delivered them to Keeling and Burleigh, he went again to the Lord Mayor, to see if he could get an appearance; and told him the writs were renewed at the suit of Mr. Papillon and Mr. Dubois, and that the deponent was pressed to make a return, and therefore desired his lordship would be pleased to give an appearance. That his lordship told him he was ready to submit to the King's writ, but would not give an appearance; and that thereupon the said officers by the deponent's command arrested his lordship.

Ld. Ch. Just.—Prithee, how came you to join Keeling and Burleigh, in this business, (one lives at Wapping, and the other at Westminster,) and not one of the sheriffs' officers?

Brome.—The attorney named them to me, and told me he could get none of the sheriffs' officers to do it; and I did not think it pro-

per to employ any one that lived in the city to arrest the Lord Mayor.

Ld. Ch. Just.—Did you ever, when you received a writ to arrest a man, and were to give a warrant upon it, call a consultation of twenty or thirty how to do it before this time? Brome.—I did not do it now.

Attor. Gen.—How came you to discharge the Lord Mayor out of custody.

Brome.—I was taken into custody myself.

Sol. Gen.—Did you know any of the company that met at Russell's, besides the Goodenoughs, and Keeling, and Nelthrop.

Brome.—There were several that I knew by sight, but I cannot remember their names.

Ld. Ch. Just.—Was Mr. West there? Brome.—I cannot positively say, whether he was or not.

Ld. Ch. Just. - You, Brome, Was Mr. Cornish there?

Brome.—Not that I know of.

Attor. Gen.—It is strange we cannot learn who those persons were that met there.

Ld. Ch. Just.—Oh! These fellows have strange memories for their purposes.

Alderman Cornish being sworn, deposed,

That Mr. Papillon and Mr. Dubois were at his house, and Mr. Goodenough came to them there, and acquainted them he could not get an appearance of the Lord Mayor, or the Aldermen he had waited on for that purpose, and desired to know what he should do; that they directed Goodenough to endeavour to get an appearance, if he could, of the Lord Mayor, and that he should remember he was chief magistrate of the city, and carry it with all respect and regard imaginable to him; that their design was only to bring the matter to an issue to be tried.

Ld. Ch. Just.—You were an alderman, pray had he any writ against you? Mr. Cornish.—I know not whether he had or no.

Ld. Ch. Just.—Did you ever know any man before bring an action, or sue to be sheriff of London? Cornish.—I never did hear of any such.

Attor. Gen.—Were you ever in any company, where it was agreed, this suit should be brought and carried on in their names.

Cornish. - I never meddled nor managed it.

Attor. Gen.—Did you ever know it was so agreed?

Cornish.—It is known to thousands as much as I know of it; the matter was disputed in all companies in the city.

Ld. Ch. Just.—It is a strange thing, that one cannot get a direct answer from these people to any thing one asks them. Do you know if Mr. Papillon was ever chosen sheriff before, and why he did not hold then?

Cornish.—I have heard he fined, as is usual, with persons whose circumstances will not permit to attend to the duties of the office.

Ld. Ch. Just.—When Mr. Bethel and you were chosen sheriffs, was not that election vacated, because you had not taken the oaths and test, and you were re-chosen again in a little time.

Cornish.—I cannot say that was the positive reason.

Ld. Ch. Just.—You must not think to dance in a net, and blind all the world; I know these things very well without their assistance, and only ask to let the world be satisfied what sort of men these are that pretend to saintship, and yet you see we can hardly get one word of truth out of them. Neither Bethel, nor that very fellow Cornish that stands there, would take the oaths and sacrament, according to law, till they found it would contribute to their design of subverting the government; then these rascals could qualify themselves for an office, only to put the kingdom into a flame.

Mr. Baker deposed, he was at the common-hall on Midsummer-day, 1682; and that upon the holding up of the hands, Mr. Papillon and Mr. Dubois had the greater number, and it was declared so by the sheriffs. That he afterwards saw the sheriffs' poll-books, and they had the greater number there.

Mr. Wightman deposed, he took that poll, and there were 2400 and odd for Papillon and Dubois.

Attor. Gen.—We have more evidence to bring in answer to this.

The Town Clerk, and the Common Serjeant were called, who deposed, That Sir Dudley North was chosen sheriff by the Lord Mayor, by virtue of his prerogative; and that the Lord Mayor and Aldermen declared him duly elected. And that they had directions to provide books to take the poll for Mr. Box, Mr. Papillon, and Mr. Dubois, and they did so; and upon closing the poll, the books were sealed up, and delivered to the Lord Mayor; and at a common-hall, afterwards, he declared Mr. Box to be chosen the other sheriff. That the poll was, as it always ought to be, under the direction of the Lord Mayor. And that the sheriffs were but officers, and not the judges and managers of the poll, without the Lord Mayor's direction.

The Lord Chief Justice then charged the jury.

“Gentlemen of the jury, the point of this action before us, resolves itself into a very narrow compass, and is only this in short. Whether or no the plaintiff was arrested by the defendant without probable cause, and maliciously. Now matters of malice, are things that remain in a man's heart, and it is impossible to discover whether another man hath malice against me, if I do not see it in his actions. Therefore you must consider the circumstances that attend this action; if they are malicious, then you are to find for the plaintiff. But, if they for the defendant, have offered to you any circumstances that can convince you that he had any probable cause of action, and that not attended with a malicious prosecution of that probable cause; then the issue is with the defendant. Now, in point of law, I am to tell you, that though I have a probable cause of action against another, yet, if to obtain my end in that, I prosecute him maliciously, with a design to ruin him, or to put an indignity upon him, or the character he bears in the public: or put a hardship or difficulty upon him (I mean in point of time) when it is probable the remedy may be had at another time; and the same thing being done with less injury and trouble, then an action will lie against me; though it be true, I had a conjectural cause of action against him. The pursuance of malicious ways to obtain a right, makes a man obnoxious to the action of the party so prosecuted.

"The Lord Mayor of London, it is true, is not, nor any person whatever, exempt from the law. If he owe a man any thing, he is bound to answer it to him, as much as the meanest citizen. But is he to be arrested just at such a time, when he is chief governor of the city, and the court of aldermen too, because they are his assistants? And at such a time as this was, when the government, both in the city, and elsewhere, was surrounded with difficulties, and in great danger on all sides. What occasion was there for such haste in this action? Would Mr. Papillon and Dubois have starved, if it had been suspended a while? Sir William Pritchard would have been as answerable to this, or any man's action, when the year of his office had been out; but it carries malice and vengeance in the very face of it. And because they would be sure their malice and revenge should take effect, they actually employed the very scoundrels of the party in this great work. The Goodenoughs, Burleigh, Keeling, and Nelthorp, who now stand attainted of high treason, must be called in, to consult about a fit man to make an arrest. It is plain, gentlemen, what the design was, from the beginning to the end; nothing but to cause a tumult and confusion in the city, in order to put that damned hellish conspiracy, for the destruction of the King and his brother, and every man that was honest and loyal, in execution.

"Gentlemen, as to the damages, if you find for the plaintiff, it is left to your judgment to consider of, and give what you shall think fit upon this occasion. It is true, it is not easy to ascertain particular damages in such a case; or to prove, that Sir William Pritchard, being in prison five or six hours, suffered so much damages as amount to 10,000*l*. Yet, however, if the point for which the action is brought, were designed with malice, though the ill design be not effected, that is no thanks to the party, nor is to weigh with you; but the malicious design must govern you. Now the malice, here was not against Sir William Pritchard, as an individual, but against the Lord Mayor; and the government of the city, the honour of the chief magistrate, and, indeed, the honour of the King, whose substitute he was, is concerned. And that adds a weight upon your enquiry into the damages in this case. You are to consider, you give damages to the plaintiff, not as Sir William Pritchard, but as Lord Mayor. And your severity in this case, will deter all people from entering into clans and cabals to make disturbances, and affront the government."

The jury then withdrew, and after half an hour's consideration returned with a verdict for the plaintiff; and assessed damages to ten thousand pounds, and costs to four marks.

JAMES DUKE OF MONMOUTH,

FOR HIGH TREASON, 1685.

THE Duke of Monmouth was the son of Charles the Second, by Lucy Waters, to whom it was alleged the King was married. He was educated as a prince of the blood, held high appointments, and was in great personal favour with his father. He was a man of fashion and gallantry, and by associating with the wits and free-thinkers, acquired liberal notions of politics and religion, which led to a mutual dislike between himself and the sullen and bigoted Duke of York, his uncle.

When the latter became King, Monmouth fled to Holland. On January 11th, 1684, he landed with a few followers at Lyme, in Dorsetshire, where he was so popular, as to be received by the inhabitants, as the rightful heir to the throne. James was active in suppressing this rebellion, and sent an army under the command of John Churchill, afterwards Duke of Marlborough. Monmouth soon found himself at the head of a body of ploughmen, farriers and mechanics, who behaved at the battle of Sedgemoor (July 5th, 1685) much better than could have been expected from so undisciplined an assembly. This was in great measure owing to the intrepid conduct of the Duke. The defeat was occasioned by Lord Grey, retreating with the cavalry, which were thrown into confusion by the noise of the cannon.

The unhappy Monmouth was found by some countrymen, two days afterwards, concealed in a field, under some straw, with a few peas in his pocket. On the twelfth he was sent to the Tower, and he was ordered for execution on Wednesday the fifteenth, on Tower-hill.

The Duke came from the Tower to the Scaffold attended by the Bishop of Ely, the Bishop of Bath and Wells, Dr. Tenison, and Dr. Hooper; which four the King sent him, as his assistants to prepare him for death; and the Duke himself intreated all four of them to accompany him to the place of execution, and continue with him to the last.

At his first coming upon the scaffold, he looked for

the executioner, and seeing him, said, is this the man to do the business; do your work well.

Then he began to speak: some one or other of the assistants, during the whole time, replying to him.

Monmouth.—I shall say but very little; I come to die; I die a protestant of the church of England.

Assistants.—My Lord, if you be of the church of England, you must acknowledge the doctrine of Non-resistance to be true.

Monmouth.—If I acknowledge the doctrine of the church of England in general, that includes all.

Assistants.—Sir, it is fit to own that doctrine particularly, with respect to your case. Here he was much urged about that doctrine of Non-resistance, but he repeated in effect his first answer.

Then Monmouth began, as if he was about to make a premeditated speech this manner:—

I have had a scandal raised upon me about a woman, a lady of virtue and honour. I will name her; the Lady Henrietta Wentworth. I declare that she is a very virtuous and godly woman. I have committed no sin with her: and that which hath passed betwixt us, was very honest and innocent in the sight of God.

Assistants.—In your opinion perhaps, Sir, as you have been often told, (i. e. in the Tower) but this is not fit discourse in this place.

Mr. Sheriff Gostlin.—Sir, were you ever married to her?

Monmouth.—This is not a time to answer that question.

Mr. Sheriff Gostlin.—Sir, I hoped to have heard of your repentance for the treason and blood-shed which hath been committed.

Monmouth.—I die very penitent.

Assistants.—My Lord, It is fit to be particular; and considering the public evil you have done, you ought to do as much good now as possibly you can, by a public acknowledgment.

Monmouth.—What I have thought fit to say of public affairs, is in a paper which I have signed; I refer to my paper.

Assistants.—My Lord, there is nothing in that paper about Resistance, and you ought to be particular in your repentance, and to have it well grounded. God give you true repentance.

Monmouth.—I die very penitent, and die with great cheerfulness, for I know I shall go to God.

Assistants.—My Lord, you must go to God in his own way. Sir, be sure you be truly penitent, and ask forgiveness of God for the many you have wronged.

Monmouth.—I am sorry for every one I have wronged; I forgive every body; I have had many enemies, I forgive them all.

Assistants.—Sir, your acknowledgement ought to be public and particular.

Monmouth.—I am to die; pray, my Lord—I refer to my paper.

Assistants.—They are but a few words that we desire. We only desire an answer to this point.

Monmouth.—I can bless God that he hath given me so much grace, that for those two years last past, I have led a life unlike to my former course, and in which I have been happy.

Assistants.—Sir, was there no ill in these two years? in these

years, these great evils have happened, and the giving public satisfaction is a necessary part of repentance ; be pleased to own a detestation of your rebellion.

Monmouth.—I beg you Lordship that you will stick to my paper.

Assistants.—My Lord, as I said before, there is nothing in your paper about the doctrine of Non-resistance.

Monmouth.—I repent of all things that a true Christian ought to repent of. I am to die ; pray, my Lord—

Assistants.—Then, my Lord, we can only recommend you to the mercy of God ; but we cannot pray with that cheerfulness and encouragement as we should, if you had made a particular acknowledgement.

Monmouth.—God be praised, I have encouragement enough in myself. I die with a clear conscience, I have wronged no man.

Assistants.—How Sir ! no man ! have you not been guilty of invasion, and of much blood, which has been shed, and it may be of the loss of many souls who followed you. You must needs have wronged a great many.

Monmouth.—I do, Sir, own that, and am sorry for it.

Assistants.—Give it the true name, Sir, and call it rebellion.

Monmouth.—What name you please, Sir, I am sorry for invading the kingdom, and for the blood that has been shed, and for the souls which may have been lost by my means. I am sorry it ever happened, (which he spoke softly.)

Mr. Sheriff Vandeput.—(To some that stood at a distance) he says he is very sorry for invading the kingdom.

Assistants.—We have nothing to add, but to renew the frequent exhortations we have made to you, to give some satisfaction for the public injuries to the kingdom. There have been a great many lives lost by this resistance of your lawful prince.

Monmouth.—What I have done, has been very ill, and I wish with all my heart it had never been. I never was a man that delighted in blood : I was very far from it ; I was as cautious in that as any man was. The Almighty knows how I now die, with all the joyfulness in the world.

Assistant.—God grant you may, Sir, God give you true repentance.

Monmouth.—If I had not true repentance, I should not so easily have been without the fear of dying. I shall die like a lamb.

Assistants.—Much may come from natural courage.

Monmouth.—I do not attribute it to my own nature, for I am fearful, as other men are ; but I have now no fear, as you may see by my face ; but there is something within me which does it, for I am sure I shall go to God.

Assistants.—My Lord, be sure upon good grounds ; do you repent you of all your sins, known or unknown, confessed or not confessed, of all the sins which might proceed from error in judgment ?

Monmouth.—In general for all, I do with all my soul.

Assistants.—God Almighty of his infinite mercy forgive you. Here are great numbers of spectators, here are the sheriffs, they represent the great city, and in speaking to them you speak to the

whole city ; make some satisfaction by owning your crime before them.

He was silent here.

Then all went to solemn commendatory prayers, which continued for some time ; the Duke and the company kneeling, and joining in them with great fervency.

Prayers being ended, before Monmouth and the four who assisted him, were risen from their knees, he was again earnestly exhorted to a true and thorough repentance.

After they were risen up, he was exhorted to pray for the King ; and was asked whether he did not desire to send some dutiful message to his Majesty, and to recommend his wife and children to his Majesty's favour.

Monmouth.—What harm have they done ? do it if you please, I pray for him, and for all men.

Assistants.—(Then the versicles were repeated.) “ O Lord shew thy mercy upon us ! ”

Monmouth.—(He made the response) “ And grant us thy salvation.”

Assistants.—(It followed) “ O Lord save the King.”

Monmouth.—“ And mercifully hear us when we call upon thee.”

Assistants.—Sir, do you not pray for the King with us ? (the versicle was again repeated.) “ O Lord save the King ! ”

Monmouth.—(After some pause he answered) “ Amen.”

Then he spoke to the executioner concerning his undressing, &c. and he would have no cap, &c. On his beginning to undress, the following conversation was heard :—

Assistants.—My Lord, you have been bred a soldier, you would do a generous christian thing, if you please to go to the rail, and speak to the soldiers, and say, that here you stand a sad example of rebellion, and intreat them and the people to be loyal and obedient to the King.

Monmouth.—I have said I will make no speeches. I will make no speeches. I come to die.

Assistants.—My Lord, ten words would be enough.

Then calling his servant, and giving him something like a tooth-pick case, “ here,” said he, “ give this to the person to whom you are to deliver the other things.”

Monmouth.—(To the executioner) Here are six guineas for you, pray do your business well ; do not serve me as you did my Lord Russell. I have heard you struck him three or four times. Here (to his servant) take these remaining guineas, and give them to him if he does his work well.

Executioner.—I hope I shall.

Monmouth.—If you strike me twice, I cannot promise you not to stir.

While he was undressing and standing near the block, there were used, by those who assisted him, several appropriate ejaculations, and part of the fifty-first psalm was repeated, particularly, "Deliver me from blood-guiltiness, O God! 'Thou God,'" &c.

Then he lay down, and soon after he raised himself upon his elbow, and said to the executioner, "prithee let me feel the axe;" he felt the edge, and said, "I fear it is not sharp enough."

Executioner.—It is sharp enough, and heavy enough.

Then he lay down again, and during this space, many pious ejaculations were used, by those that assisted him, with great fervency: Such as "God accept your repentance, God accept your repentance, God accept your imperfect repentance; my Lord, God accept your general repentance. God Almighty shew his omnipotent mercy upon you. Father into thy hands we commend his spirit, &c. Lord Jesus receive his soul."

The executioner then proceeded to do his office.

JOHN FERNLEY,
WILLIAM RING, ELIZABETH GAUNT,
AND HENRY CORNISH, Esq.

ALDERMAN OF LONDON,

OCT. 19, 1685.

THE indictment set forth,

"That the said John Fernley, the 20th of August, in the first year of King James the Second, and divers other days and times, as well before as after, at the parish of St. Mary Mat Fellon, alias White-chapel, in the county of Middlesex, knowing one James Burton to be a false traitor and rebel, did harbour, conceal and sustain him in his mansion-house, situate in the parish aforesaid, against the duty of his allegiance, and against the peace of our said lord the king," &c.

Clerk.—How sayest thou, John Fernley, art thou guilty, &c.

Fernley.—Not guilty.

The indictment against William Ring set forth,

"That the said William Ring, the 20th of July, in the first year of King James the Second, and divers other days and times, as well

before as after, at the parish of St. Clement's Danes, in the county of Middlesex, and well knowing Joseph Kelloway and Henry Lawrence to be false traitors and rebels, did harbour, conceal and sustain them, in the dwelling-house of him the said William Ring, situate in the parish and county aforesaid, against the duty of his allegiance, against the peace of our said sovereign lord the king, his crown and dignity, and against the form of the statute in that case made and provided," &c.

Clerk.—How sayest thou, William Ring, art thou guilty, &c.

Ring.—Not guilty.

Clerk.—Set Henry Cornish to the bar. Henry Cornish, hold up thy hand.

Mr. Cornish.—My Lord, I hope I shall be allowed what is customary in such cases.

Lord Mayor.—What is it you would have?

Justice Jones.—Would you not be arraigned, Mr. Cornish? After you have been arraigned, and have pleaded, you may speak.

Mr. Cornish.—Is it reasonable not to have above half a day's time for preparation for my trial, and no counsel allowed me.

Recorder.—Nor ought, without leave of the court, or by his Majesty's special appointment.

Cornish.—My Lord, ought not I to have a copy of the pannel? It is a thing never denied.

Recorder.—It has been denied often. Come, Mr. Cornish, you must plead.

Mr. Jones.—If you will not plead, I will move the court to record your standing mute.

Cornish.—I have known that this court hath heard what the prisoner hath to say at the bar; and I have more to say, perhaps, than any man that ever stood at this bar.

Recorder.—When you plead you will have time to speak.

Clerk.—Henry Cornish, hold up thy hand, which he did.

The indictment set forth,

"That the said Henry Cornish, the 30th of May, in the thirty-fifth year of King Charles the Second, and divers other days and times, as well before as after, at the parish of St. Michael Bassishaw, London, falsely, maliciously, and traitorously, knowing James the late Duke of Monmouth, William Russell, Esq., and Thomas Armstrong, Knt., and divers other rebels and traitors, to have conspired the death of the said late king, did then and there promise, that the said Henry Cornish would be aiding and assisting to them, in carrying on the said conspiracy, against the duty of his allegiance," &c.

How sayest thou, &c.

Cornish.—This is a heinous charge.

Counsel.—Are you guilty or not guilty?

Cornish.—Not guilty.

Clerk.—Culprit, how wilt thou be tried?

Cornish.—By the Great God of heaven and my country.

The Jury was then sworn.

Clerk.—Set William Ring to the bar.

Attor. Gen.—We will first shew the record of the conviction of

Kelloway and Lawrence. (A copy of the record was produced, and Mr. Harcourt sworn.)

Ld. Ch. Just. Jones. — Is that a true copy of the record?

Harcourt. — Yes.

Ld. Ch. Just. Jones. — See what they have done.

Clerk. — They are indicted of treason for levying war against the king, and have confessed the indictment on their arraignment; and the judgment on the indictment is as usual in cases of treason.

Attor. Gen. — Now we will show, that between the treason and their conviction this prisoner did receive them.

Mr. Barrington was sworn.

The 11th of July last I was abroad about my master's business: and when I returned, I was told Mr. Ring, who lives at the Bible in Witch-street, wished to speak with me, and that Mr. Lawrence was at his house. I went thither, and found Mr. Lawrence lying upon the bed weary and tired; and when I had been there awhile, one Kelloway came in. They said, they came out of the west country on Friday night, and I saw them on Saturday. I called there on Wednesday the 15th, at night, and Mr. Lawrence told me they were going from thence, to the Pewter Platter, in St. John's. I was with Mr. Common Serjeant at the Castle Tavern, without Temple Bar, when he sent for Mr. Ring, to examine him about these men. Mr. Ring said, he knew nothing of these men, till Mr. Common Serjeant ordered his house to be searched, and a paper was found there, and produced to Mr. Ring.

Mr. Barrow was sworn.

I heard Ring confess to my Lord Mayor, in July last, that Lawrence and Kelloway told him, they had both been in the late western rebellion in Monmouth's army, and that after that, he had lodged them two or three nights in his own house.

Mr. Crisp was next sworn.

I went to search Mr. Ring's house, and in the window there was a letter under Mr. Lawrence's hand, sealed up, and directed to Newbury, for a horse which he had stolen from his master, and left at Newbury. Ring owned, when the letter was produced, that he had such a cousin; and when he came to the Sessions-house, Lawrence and Kelloway were produced before him, and were examined what account they had given to him when they came to his house; they told him, after the Duke of Monmouth was beaten they ran away to London, and Kelloway being his cousin, brought Lawrence with him; that they lay there Friday night, Saturday night, Sunday night, and Monday night; and Ring confessed he lodged them two or three nights.

Mr. Hardesty was sworn.

This is Ring's examination, taken before the Lord Mayor; it was read to him half a dozen times, I believe.

The examination of William Ring, &c.

"That Joseph Kelloway and one Henry Lawrence, the said Kelloway's acquaintance, came to this examinant's house on Friday or Saturday last; that this examinant did ask of Kelloway (being this examinant's kinsman), what did drive them to town? That they told

this examinant, that they went to Monmouth, that he was routed, and that brought them to town, or to that purpose; that the night they came, this examinant told them, he was unwilling to lodge them; that he did lodge them, after this discourse, Saturday, Sunday, and Monday nights, and they dined twice with this examinant, and that Kelloway and his acquaintance told him, they left their horses at Newbury, &c.

Richardson sworn.

Those two persons, Joseph Kelloway and Henry Lawrence, who were committed for being in the late rebellion, I carried down into the west, where they were both convicted: one is executed, and the other hath a reprieve. Henry Lawrence was Captain Hunt's man; he run away with his horse and arms.

Ld. Ch. Justice Jones.—What do you say for yourself?

Ring.—I acknowledge I did lodge them, but I did not understand what design they had been upon.

Just. Withins.—It is under your hand.

Ring.—If it be, I never said it; when it was taken I was in amaze; I was ordered to put my hand to it.

Ld. Ch. Jus. Jones.—Did you not confess it?

Ring.—I did not confess it.

Ld. Ch. Just. Jones.—“Gentlemen of the Jury, the prisoner stands indicted of high treason, for receiving Joseph Kelloway and Henry Lawrence, who were traitors, and known to him to be traitors, and harbouring them in his house, and giving them entertainment and comfort. And though this man himself were not in actual rebellion, yet if he do receive any that he knows to have been so, he is equally guilty, he is a principal traitor by the judgment of the law.” Having repeated the evidence, he then directed them to find the prisoner guilty.

Clerk.—John Fernley, hold up thy hand, you stand indicted, &c.

Sol. Gen.—This prisoner stands indicted of high treason, for receiving and harbouring one James Burton, who was guilty of treason, knowing him to have been guilty of treason; and, first, we will shew the record of the outlawry.

Clerk.—An indictment preferred against James Burton, and divers others for high treason, for which the said Burton and others stand outlawed, by the return of Samuel Dashwood, Esq. and Sir Peter Daniels, sheriffs. This is the record itself, my Lord.

Mr. Ward was sworn.

Just. Withins.—Is that the record?

Ward.—Yes it is.

Mr. Hardesty reads.—On Monday, next after the feast of St. Michael, the said Richard Rumbald, James Burton, &c. are outlawed, and every of them is outlawed.—It is November was twelve months.

James Burton was sworn.

I came out of the west into London, from Monmouth's army, on a Wednesday night, about three weeks after the rout; I came home to my wife, and staid there till Friday night, and on Friday night she got me a lodging at Mr. Fernley's, whither I went about ten

o'clock at night, and staid there till Sunday night, when I was taken.

Just. Withins.—Did you see Mr. Fernley?

Burton.—I saw him at dinner on Sunday, and not before.

Ld. Ch. Just. Jones.—What was the occasion of your absence for two years?

Burton.—I was in the proclamation, for being with Rumbald at the Mitre tavern.

Just. Withins.—What discourse had you with Fernley at dinner?

Burton.—We discoursed about the army's being routed, and, I believe, I told him I was there.

Just. Withins.—Did he know you fled upon the account of the proclamation before?

Burton.—He might know it by others, but not by me.

Mary Burton sworn.

Mr. North.—How came this man to lodge at Mr. Fernley's?

Mrs. Burton.—Because I thought he was not safe at home, and being acquainted with Mrs. Fernley, I thought I might have entertainment there.

Ld. Ch. Jus. Jones.—What discourse had they at dinner on Sunday?

Mrs. Burton.—While I was eating I did not mind.

Mr. North.—Did you speak with Mr. Fernley yourself?

Mrs. Burton.—I did not speak with Mr. Fernley himself.

Mr. North.—When you saw him at dinner, had you any discourse about your husband's going away upon the proclamation?

Mrs. Burton.—I had not indeed.

Mr. Reynolds sworn.

Towards the beginning of August last, hearing that there were several that were in the west, about Wapping, I took the Lieutenant of the Tower's warrant, and went on Sunday, about eight o'clock at night, and took Mr. Burton in Mr. Fernley's house; and Mr. Fernley being master of the house, I wished the constable to secure him. We found Burton one pair of stairs up the chimney, and while we were there, he fell down with all the soot about him. Fernley was one pair of stairs higher.

Sol. Gen.—James Burton being outlawed, would not be a competent witness; but we have here a pardon, whereby that outlawry is discharged, so that he is now a legal witness.

The pardon was produced and read.

Ld. Ch. Just. Jones.—What say you, Mr. Fernley?

Fernley.—My Lord, I did not know when Burton came to my house, till sabbath day at dinner; my wife told me he came on Friday night. When I came from church I went up to dinner, and saw him: I asked what in the name of God brought him there! and he told me how he had made his escape: and about half an hour after we had dined, one knocked at the door (it was one Gaunt,) who asked if Mr. Burton was within? I brought him up with me, and Burton thanked Mr. Gaunt for a guinea he had sent him. Gaunt said, in a little time, he should have passage for him beyond the

sea, and that some gentlemen were gone awhile ago, and named several gentlemen that were to go, as Colonel Danvers and Major Wildman. Upon this discourse, I considered how I might do his Majesty a piece of service; but thought it better not to seize him, till I had acquainted some magistrate; and even thought in the morning, of going to a justice of peace, and have had him apprehended. Burton I knew was secure, he could not escape my hands; and I had no design of concealing him. I knew there was one hundred pounds for him in the proclamation, and being a poor man, there was no obligation on me to conceal him, and ruin myself and family.

Ld. Ch. Just. Jones.—Could not you have sent your boy, when he had discoursed thus treasonably with you? But keep him in your house seven or eight hours, after you had entertained him at dinner. Are you a constable?

Fernley.—I am, and upon account of my office, was the more secure.

Ld. Ch. Baron.—If you had a loyal heart, you should have detained Gaunt.

Fernley.—My Lord, I let Gaunt go, because he promised to come again next day; and there being a proclamation out against Danvers and Wildman, and hearing Gaunt discoursing of their design, I thought that (he promising to come again next day) knew how they were to go.

Just. Levins.—If you had had an honest intention, you would have gone to some justice of peace, and acquainted him with it. Have you any witnesses?

Mr. Rush was then called.

I formerly knew the man, he was a barber, and used to trim me. I always looked upon him to be a sober man.

Crier.—Captain Haddock. Officer.—He wont come in.

Ld. Ch. Just. Jones.—Well, well, let him stay there.

Crier.—Mr. Dove.

Officer.—He wont come in: I cannot make him come in.

Ld. Ch. Justice.—Here are none that will give any testimony for you.

Mr. Whittal called.

All I know is, he behaved himself very well, and went to church as other neighbours did; and I never heard him speak against the government.

Fernley. This, my lord, may give some account that I had no design against the government. I am a poor man, and owe a great deal of money. I knew there was one hundred pounds for securing Burton; there was no gain by concealing him; he was not a person that could requite me, that I should harbour him, and lose one hundred pounds.

Ld. Ch. Just. Jones.—This argues you to be a stronger confederate, that you were so firm to your party, you would not gain one hundred pounds, though you might have it for doing your duty.

Fernley.—My lord, I looked upon it as sure as if I had it in my pocket. I knew nothing of him, till Sabbath day at noon: and I

did not design to conceal him afterwards, any further than to serve the king.

Then the jury withdrew to consider of the verdict.

Clerk.—Set Elizabeth Gaunt to the bar (which was done.) Elizabeth Gaunt, hold up thy hand (which she did.) Thou standest indicted, &c.

The indictment set forth,

“That the said Elizabeth Gaunt, wife of William Gaunt, of the parish of St. Mary, Whitechapel, in the county of Middlesex, yeoman, the 24th day of September, in the 36th year of the late King Charles the Second, and divers other days and times, as well before as after, at the parish and ward aforesaid; well knowing one James Burton to be a false traitor and rebel, the said James Burton, in a certain house, to the jurors unknown, did knowingly, secretly, and traitorously sustain and maintain, and meat and drink, and five pound in money, for the maintenance and sustenance of the said James Burton to him maliciously and traitorously did deliver; against the duty of her allegiance, and against the peace, and against the form of the statute,” &c.

To which indictment she pleaded not guilty.

Then the Middlesex jury returning, Mrs. Gaunt was set aside, and Ring and Fernley brought to the bar, who were both brought in guilty.

Clerk.—Set Henry Cornish to the bar, and Elizabeth Gaunt, which was done.

Cornish.—My lord, I humbly pray I may have time allowed me for my trial; I have had no council, no pannel, or pen, ink or paper. My lord, his Majesty was petitioned last night by my children, and was pleased to refer it to my lords and judges.

Attor. Gen.—The king left you to the course of the law.

Ld. Ch. Just. Jones.—You were apprehended on Thursday, this is almost a week; you knew what you was charged with.

Cornish.—I did not know what I was charged with; and no friend, but my wife, was permitted to come to me, and then it was in the presence of Major Richardson.

Attor. Gen.—He had pen and ink as soon as he petitioned for it.

Just. Withins.—It is never allowed in such cases, but upon petition.

Cornish.—My Lord Russell had seven or eight days allowed him.

J. Levins.—But that is not necessary; prisoners that are tried here, generally have no notice at all. If one man hath a singular favour, another man cannot claim it.

Ld. Ch. Just. Jones.—My lord's trial, I think, was put off but till the afternoon.

Cornish.—With submission, I think he had eight days assigned him; but I have a material witness 140 miles off.

Ld. Just. Jones.—Why did you not set forth that in your petition to the king? Were not you committed for high treason?

Cornish.—My lord, the commitment did not mention this king or the last, and I am not skilled in these things: I humbly pray your lordship to consider it.

Ld. Ch. Just. Jones.—Mr. Attorney, have you any directions?

Attor. Gen.—No, my lord.

J. Withins.—You should have applied yourself to the king, as it does not lie in our power; and here is Mr. Bridgman on the bench, who says, there was a petition before the king, for putting it off, and the king absolutely refused it.

Cornish.—I desire a copy of the pannel.

Ld. Ch. Just. Jones.—You shall have a copy of the panel here.

Cornish.—My lord, my witness is in Lancashire, I beseech your lordship to hear me.

Ld. Ch. Just. Jones.—Mr. Attorney, if you pray he may be tried, we cannot deny it.

Attor. Gen.—I cannot defer it. And why you should be in another condition than other prisoners, I do not know. You have not deserved so well of the government.

Cornish.—I hope I may have pen and ink.

Ld. Ch. Just. Jones.—Aye, aye.

The jury were called, and after thirty-five were challenged by Mr. Cornish, the jury was sworn.

Proclamation being made, if any one can inform, &c. Mr. Cornish was set aside, and Elizabeth Gaunt set to the bar.

Attor. Gen.—The prisoner stands indicted for harbouring Burton, who was a great traitor, and for procuring a way for his escape beyond sea; and also, for giving him five pound. She and her husband were the great brokers, for carrying over such traitors as Lord Shaftesbury and others. Call Burton and his wife.

Burton sworn.

Attor. Gen.—Pray give an account what passed between you and Mrs. Gaunt; and first, whether you were engaged in the matter of the Rye?

Burton.—Mr. Keeling came to me one Saturday morning, and desired me to meet him at the Mitre tavern, within Aldgate, and ask for No. 5. I met a countryman there, who had but one eye; he asked for the same number. In a little time Keeling came in, and brought Barber and Thomson; but nobody spoke anything hardly but Rumbald (that was Rumbald with one eye,) he talked about privileges, and such things; and said, his house was a convenient house, and there they might do the business. Before they had done I found they designed to kill the king; but nothing troubled him but killing the postillion. Shortly after, Mr. Keeling went and made a discovery, and I was in the proclamation for being at that meeting, and absconded. About two months after, Mrs. Gaunt came to me, and told me there were some persons about to make an escape, and would have me go along with them. She had me into Bishopsgate-gate, and in Half Moon alley, in a little brewhouse, up stairs in a chamber, there were both the Rumbalds, one of them did not go, the other I lay with all night, and in the morning we went down to Whitechapel, to take horse for Rochford Hundred, where we staid for the vessel two days. It was a small vessel and

leaky, and ill-manned, and the weather bad; so we agreed to come back to London. I lay by a great many months after. Then Mrs. Gaunt came to me again, and told me there were two persons going, and I might have a passage if I would go; and a boat being ready at the water-side, carried me to Gravesend, from whence I went in a vessel to Amsterdam.

Attor. Gen.—How came Mrs. Gaunt to take so much care of you? Burton.—I suppose because she was aware that I knew her husband who was concerned.

Attor. Gen.—What had her husband done? Burton.—He would have had me gone with him and Captain Walcot to the Tower, to see what force there was of soldiers. And Captain Walcot said, he had a design to take a house over against the Tower, to put in some men there, to break in upon the Tower, and Gaunt was with him.

Mr. North.—Did Mrs. Gaunt assist you with any money? Burton.—I believe about five pounds.

Attor. Gen.—Did she know what you were concealed for? Burton.—Every body knew that, because I was in the proclamation.

Attor. Gen.—Who were the two persons that were prepared to go with you? Burton.—One was Patchill, he was killed in the fight; the other lived in Southwark, I never saw him before. She directed me, that when I came to the boat, if I knew anybody, I should not notice them.

Mary Gilbert, Burton's daughter, was sworn.

Mary Gilbert.—Mrs. Gaunt came to our house that night my father went away; I never heard a word of the discourse that passed: I always went out of the way, because they were not willing I should hear. Mrs. Gaunt carried him to a house without Bishopsgate, and there I saw a man that had but one eye, a full set man, full of pock-holes, but I never saw him before nor after.

Ld. Ch. Just. Jones.—Do you know why your father went away? Mary Gilbert.—He went upon account of the proclamation.

Mary Burton sworn.

Attor. Gen.—How came Mrs. Gaunt to inquire after your husband? Mrs. Burton.—It was at my daughter's house; she said, if I was willing my husband should go away, she would take care—

Com. Serjeant.—Upon what account did she come to you, to secure your husband? Mrs. Burton.—Upon the account of his being in the proclamation; and I thought within myself for fear my husband should know any thing against her husband.

Attor. Gen.—When your husband went away, and his house was searched, how far did she live from you? Mrs. Burton.—She had lodgings at the upper end of Old Gravel-lane, and my daughter in the middle of Gravel-lane, in Worcester-street.

Attor. Gen.—Was it taken notice of all over the street, that the house was searched, and your husband gone? Mrs. Burton.—Yes, yes.

Ld. Ch. Just. Jones.—Woman, what say you to this evidence?—

Mrs. Gaunt.—I did not contrive to send him away.

Ld. Ch. Just. Jones.—The woman, Burton, and the daughter say

so, and you gave him money afterwards. He swears it; did you or did you not?

Capt Richardson.—She says she is not come here to tell your lordship what she did.

Ld. Ch. Just. Jones.—Did you not hear that Burton's name was in the proclamation about Rumbald's plot? Mrs. Gaunt.—It is likely that I might.

Ld. Ch. Justice.—And yet you would help him to escape? Mrs. Gaunt.—He says so.

Ld. Ch. Justice.—He swears so. Mrs. Gaunt.—And is that sufficient?

Justice ———. Aye, and another swears it, and that is sufficient. Mrs. Gaunt.—Not about the money.

Ld. Ch. Just. Jones.—Did you know his house had been searched to find him? Mrs. Gaunt.—I did not know it a great while; I might know it since.

Here Burton's pardon was produced again.

J Withins.—Now he is a good witness, gentlemen.

Ld. Ch. Just. Jones. — “Gentlemen of the jury, this woman stands indicted for high treason,” &c. After he had summed up the evidence, he concluded, “if you believe she did know or believe Burton to have been guilty of that treason, and that she did help to convey him away, as the witnesses have proved that she did, by giving him money, and soliciting him several times to be gone, then you ought to find her guilty.”

Then the jury desiring to ask a question, Burton was called again; but being out of court, was called for, and in the mean time Mr. Cornish was set to the bar.

Clerk.—Henry Cornish, hold up thy hand, &c. The jury are charged with him.

Mr. Phipps.—The prisoner at the bar stands indicted, for that he, knowing the late Duke of Monmouth, William Russell, Esq., the late Lord Grey, and other traitors, had conspired the death of the late king, and to raise rebellion in this kingdom, did promise to aid and assist them.

Mr. Burton came in.

Ld. Ch. Just. Jones.—You said you received five pounds of Elizabeth Gaunt, did she owe you any money, or, was it to assist you in your escape?

Burton.—She knew I was bare of money, and gave it me freely.

Ld. Ch. Just. Jones.—Was it at the time you went away?

Burton.—Yes.

Com. Serj.—Who paid your boat hire?

Burton.—I do not know.

Cornish.—I desire the witnesses may be kept apart.

Attor. Gen.—Mr. Rumsey, pray give an account of the insurrec-

tion that was to have been in England, in the late king's time, and what concern the prisoner had in that affair?

Rumsey.—About the latter end of October, or the beginning of November, my Lord Shaftsbury desired me to go to Mr. Sheppard's house, where there was a meeting of the Duke of Monmouth, Lord Russell, Lord Grey, Sir Thomas Armstrong, Mr. Ferguson, and Mr. Sheppard. I came late there myself, and they were just going away: I told them my message, and they told me they were disappointed by Mr. Trenchard. I had not been there a quarter of an hour, when Mr. Sheppard was called: he went down, and brought up Alderman Cornish. When Mr. Cornish came into the room, he made his excuse that he did not come sooner; and said, he could not stay with them, because they were to meet that night about their charter. Upon that, Mr. Ferguson pulled a paper out of his bosom; they told him, they had that paper read, and desired to read it to him. Mr. Ferguson read it; and after he had read it, they asked him, how he liked it? and he said, he liked it very well.

Ld. Ch. Just. Jones.—What were the contents of that paper?

Rumsey.—The first part, complained of the government of the late king: there were two points in it, I remember very well, that they would declare for; one was, liberty of conscience. And the other, that all those that would assist in the insurrection, who had any lands of the church, or the king's, in the late war, should have them restored to them. It was a declaration to be dispersed upon the rising.

Attor. Gen.—Was there a rising intended at that time?

Rumsey.—Yes; and they met there for that purpose: and Mr. Trenchard was the man to manage the business about Taunton, but he disappointed them.

Attor. Gen.—What was your message from my Lord Shaftesbury to them?

Rumsey.—It was to know, what issue they had come to about the rising, and to press them to it? For such a matter was not to be long kept a-foot: either let them come to a resolution to rise, or let it fall for good and all. Mr. Cornish said, he liked it very well, and that what poor interest he had, he would join with it.

Cornish.—I declare I never was at any consultation in my life, at Mr. Sheppard's; but I have had great dealings with Mr. Sheppard.

Ld. Ch. Just. Jones.—Were you present at Sheppard's when Ferguson was there, and pulled the paper out of his bosom?

Cornish.—It is as great an untruth as ever was told in the world: but since he takes this freedom to charge me, I desire to know if he be a lawful evidence? He stands charged guilty of high treason.

Attor. Gen.—There is no indictment at all against him.

Rumsey.—Mr. Cornish and I, have had great concerns together; during the time I managed the customs at Bristol, he returned between three and four thousand pounds for me. He is a very honest gentleman, and I appeal to himself, whether I take delight in appearing here to accuse him?

Cornish.—But, colonel, what is the reason that you have not accused me all this time?

Rumsey.—I think I suffer for it, and not you: you say I accuse you falsely; then, Mr. Cornish, you do not stand there, nor I here.

Attor. Gen.—Had you never any discourse with him at other times?

Rumsey —We have had a long acquaintance, fourteen years; but in my life I never heard him speak any thing before that, to my knowledge.

Goodenough sworn.

Cornish.—He is not a witness; he stands indicted upon an outlawry.

Ld. Ch. Just. Jones.—They admit it, but will produce a pardon.

Just. Withins.—He was your under-sheriff

Cornish.—Much against my will; and this is nothing but malice against me.

Mr. Goodenough's pardon read.

Cornish.—I conceive this cannot be done, but by writ of error, or act of parliament.

Just. Withins.—That is no piece of law, I am sure of it.

Attor. Gen.—What do you know of a rising intended?

Goodenough —I know nothing of the business of my Lord Russel's; but there was a design to rise in London: we designed to divide it into twenty parts, and out of each part to raise five hundred men, to make an insurrection. They were to take the Tower, and drive the guards out of town.

Attor. Gen.—Acquaint my Lord, what discourse you had with Mr. Cornish.

Goodenough.—Before this was agreed on, I chanced to be at Alderman Cornish's; Sir, said I, now the law will not defend us, though we be never so innocent; some other way must be thought on. Said he, I wonder the city is so unready, and the country so ready. I said to him again, there is something thought of to be done here: in the first place, the Tower ought to be seized. Upon this, he made a little pause, and said, I will do what I can, or what good I can. Sometime after, he met me on the Exchange, and asked me how affairs went? This I understood to be relating to what we discoursed of. This was in Easter term, 1683; and I never met him afterwards.

Cornish.—My lord, he hath been in an act of treason since that for which he is pardoned.

Ld. Ch. Just. Jones.—If he be guilty of treason, till he is tried and convicted, it doth not shake his testimony.

Cornish.—Pray, Mr. Goodenough, remember all your tricks: was there any body present, when this discourse passed between you and me?

Goodenough.—No; it was in your lower room, in your own house.

Cornish.—As to my asking him how matters went? that might be in reference to the suit you were managing for the rioters; I know of nothing else.

Just. Withins.—I tell you, Mr. Cornish, that was a branch of the same plot.

Ld. Ch. Just. Jones.—But you say, it is strange you should be in a room alone, when you acknowledge him to have been attorney in a cause of mighty consequence among you.

Cornish.—He was concerned for all; and I do not believe he ever came to me about that business.

Attor. Gen.—Will you ask him any more questions? If not, go on, we have done.

Cornish.—My lord, it is a very improbable thing, that I should meet Colonel Rumsey at Mr. Sheppard's, where I saw such wicked, horrible doings; and that he should never after speak to me of that affair. He owns we had a great deal of freedom, that we were acquainted for fourteen years together; and that I should see him so often afterwards, and never speak of it, is as improbable, as anything in the world. The great God of heaven and earth, before whom I stand, knows that I know nothing of all that he hath sworn against me: he must swear these things to save his own life. I am as innocent as any man in this court, if I were to appear before the great God in judgment this moment.

Ld. Ch. Just. Jones.—I would allow you all the liberty in the world, to speak pertinently to your defence; but to oppose confidence against express testimony, is the weakest defence that can be. If you have anything to urge against the testimony of these persons, besides the improbability you have so often mentioned, you shall be heard? If you have any witnesses you wish to call, we will hear them likewise.

Cornish.—Mr. Rumsey declared upon his oath, when he swore against my Lord Russell that he had nothing else to swear against any man.

Just. Withins.—How does it appear?

Cornish.—I will produce it if your lordship please to give me time.

Just. Withins.—But afterwards he discovered a great deal more.

Cornish.—I conceive, that as Rumsey has not produced a pardon, his evidence is not good.

Ld. Ch. Just. Jones.—You have had the opinion of the court; we must over-rule you.

Cornish.—I have some witnesses to call, as to Mr. Goodenough, It was my great misfortune he was admitted into the office of under-sheriff; I desire some few men may be called, that will witness that I opposed him.

Mr. Gosfricht called.

My lord, after Bethel and Cornish were chosen sheriffs, they had some meetings concerning an under-sheriff. Bethel, named Goodenough, and Cornish, named another: and Cornish told Bethel, if Goodenough were under-sheriff, he would fine, and not hold; for he said, he was a man he would not trust a hair of his head with. that he had no knowledge of his business, was obnoxious to the government, and an ill disposed man.

Ld. Ch. Just. Jones.—How did Goodenough and Cornish agree?

Gosfricht.—I believe the animosities were so great that they were never reconciled.

Alderman Love called.

Love.—I heard Mr. Cornish complain, he was imposed upon in taking this man: he was much inclined to one Milborn.

Mr. Jekyl called.

Jekyl.—He told me when he was sheriff, how he was troubled with Bethel, because he would put Goodenough upon him; and as I remember, he said he would not have him, because he was obnoxious to the king and government.

Cornish.—If Sir William Turner be upon the bench, I desire he would declare how I was used?

Sir W. Turner.—I remember Mr. Cornish told me, that Mr. Bethel pressed very much for Goodenough to be under-sheriff; that he had no mind to accept him, and he would propose another; and it caused a great difference, but it was at last settled.

Cornish.—I shall call some witnesses to my life and conversation.

The Dean of Canterbury, Dr. Tillotson, (who did not appear.)

Ld. Ch. Just. Jones.—Will any man attest your loyalty in London.

Cornish.—The Dean of Norwich, Dr. Sharp, (who was not there.)

Cornish.—I desire Mr. Lane may be asked what he knows?

Lane. Colonel Rumsey says, in Lord Russell's trial, he did not hear the declaration read; but it was read before he came there.

Mr. North.—Were you present at the trial?

Lane.—No, Sir, it is in the printed trial.

Ld. Ch. Just. Jones.—It is no proof at all.

Cornish.—It is by authority.

Ld. Ch. Just. Jones.—Any body that was present may swear it.

Dr. Calamy, the minister of his parish, called.

Dr. Calamy.—Mr. Cornish came to church with his family, constantly, and to the communion once a month; and I never heard him say a disrespectful word of the government, the two years I have been minister.

Mr. Reeve, and Mr. Cook, and Mr. Knap, &c. were called, and testified as to his reputation and loyalty.

Cornish.—I am satisfied, I have appeared here, with all the care and caution that becomes an honest man; I have spoke nothing but what I have considered, as I have been in presence of the great God. I never was at any meeting, nor ever heard anything of this, till the trial of my Lord Russell.

The Lord Chief Justice Jones then repeated the evidence, and directed the jury to find against the prisoner.

The jury withdrew, and returned after a considerable time.

Cornish.—I must pray your lordship to consider my tenderness in offending you, which made me omit calling Mr. Sheppard. Pray, my lord, be pleased to remember Mr. Rumsey's evidence.

Attor. Gen.—I would acquaint you, my lord, I sent a *subpœna* for Mr. Sheppard, but could not find him: but I understand, that Mr. Cornish's son was with him yesterday, and he has absconded: this I will give an account of upon oath. This, my lord, is a dangerous practice after examination, and after the jury is withdrawn.

Cornish.—Pray do not aggravate the matter?

Attor. Gen.—I must do my duty for the king.

Cornish.—My son found him at church.

Mr. Sheppard called.

Attor. Gen.—Is there any account between you and Mr. Cornish?

Sheppard.—Yes, there is, about one hundred or two of pounds, due to him.

Sol. Gen.—Did you leave word whither you went, when you went out yesterday. Sheppard.—No, Sir.

Sol. Gen.—Which *subpœna* was served first upon you?

Sheppard.—Mr. Cornish's: it was served on me yesterday, soon after I came out of church.

Ld. Ch. Just. Jones.—What have you to say?

Cornish.—Mr. Rumsey gave evidence that Mr. Sheppard held the candle while the declaration was read.

Sheppard.—At one of those meetings that was at my house, Mr. Cornish came into the house to speak with the Duke of Monmouth, or some other person, and did not stay half a quarter of an hour; I came up, and went out with him, and there was not one word read, and no paper seen, while he was there. I remember there was a declaration read, Ferguson pulled it out of his shoe: but I positively deny there was any paper read to Mr. Cornish, for he was not looked upon to be of the company. And Mr. Cornish was there but once, when the Duke of Monmouth was there.

Ld. Ch. Just. Jones.—There was a cabal of rebels met together, and you go and bring up this man to them, without any leave from them, which is incredible; unless you knew him to be one of the company, and equally engaged with him.

Just. Levins.—They came privately, I suppose that nobody should know they were there? Sheppard.—I suppose so, Sir.

Just. Levins.—Why then did you carry Mr. Cornish up?

Sheppard.—My lord, to my knowledge, I can safely say, he knows nothing of it.

Attor. Gen.—Had you order from that company not to bring up any person? Do you remember you swore so at a former trial?

Sheppard.—They desired I would let none of my servants up and I fetched up wine, and what they wanted.

Rumsey.—My lord, as soon as Mr. Cornish had made his excuse for not coming sooner, all the company went about him, and somebody told him, they would acquaint him with what they had done. They told him the declaration had been read; that Mr. Ferguson had prepared; and they said, look you, Mr. Cornish, you shall hear it read: and then this gentleman, though he denies it, took the candle, and held it; they did not come to the table, but the company stood round, while Mr. Ferguson pulled it out of his bosom. My lord, the declaration was read, and Mr. Cornish did approve of it, and said, with that small interest, or little interest, or words to that effect, that he would assist.

Mr. Solicitor summed up the last part of the evidence, and then the jury withdrew for a short time, and returning, brought Mr. Cornish in guilty: and found 140l. for the king, in Mr. Sheppard's hands.

Elizabeth Gaunt was then set to the bar, and Mr. Recorder pronounced sentence upon her.

Clerk.—Bring Henry Cornish to the bar: hold up thy hand, &c.

Mr. Cornish made protestations of his innocence, and desired the court to intercede with his majesty for his life.

Then William Ring and John Fernley were set to the bar with him; and Mr. Recorder pronounced sentence upon all three, as traitors.

At Cornish's execution, which took place before his own door in Cheapside, he made the following speech:

I am come here this day condemned to die; but God is my witness, the crimes laid to my charge were falsely and maliciously sworn against me by the witnesses; for I never was at any consultation, nor any meeting, where matters against the government were discoursed of: I never heard nor read any declaration, nor ever acted anything willfully against the government. I confess, through the justice of God my private sins have brought me to this infamous end; yea, it were just with God, not only to deprive me eternally of his presence, but to condemn me to eternal torments; but, through Christ, I hope to be eternally blessed: yet, as to the crimes for which I suffer, on the words of a dying man, I am altogether innocent. I bless God I was from my younger years brought up in, and have for some years continued a protestant, in the communion of the church of England; in which communion I now die. I have often partaken in the ordinances, the blessed effects and comfort thereof I now feel in this my agony. I bless God I was born under a government, in the constitution of which I did ever acquiesce, and in which I was once a member; at which time I did, according to the best of my understanding [*Here he was interrupted by the Sheriff.*—I bless God I was born in a land of light, where the gospel hath been preached in power and purity; he might have brought me forth in a land of darkness and ignorance; but blessed be God for Jesus Christ.—Then he entreated the sheriff to intercede with his Majesty to be kind to his poor wife and children: the sheriff promised to wait on his Majesty the next day about it. He replied, “Mr. Sheriff, I thank you, the Lord reward you a thousandfold; the Lord put it into the hearts of you to be kind to the widows and fatherless; it is your duty: the Lord put it into the hearts of all good people to pray for me.”

He was afterwards discovered to be innocent, and the tyrant king restored his forfeited property to his unhappy widow.

PHILIP STANSFIELD, SON OF SIR JAMES

STANSFIELD, OF NEW MILNS,

FOR HIGH TREASON AND THE MURDER OF HIS FATHER,
FEBRUARY 6th, 1688.

SIR JAMES STANSFIELD held the rank of Colonel in the parliamentary army. After Cromwell's victory at

Dunbar, he went to Scotland, and established a woollen manufactory at New Milns, (now Amisfield) in the neighbourhood of Addington, under the patronage of the protectorate. At the restoration parliament granted certain annuities and privileges to Colonel Stansfield, on whom Charles II. conferred the honour of knighthood. His prospects were, however, soon blasted; for in 1687, he was found murdered, as was supposed, by his eldest son Philip, whom he had disinherited for his debauchery. This unfortunate man was brought up for trial, February 6, 1688, when

THE indictment set forth :

“ That whereas by the laws of this kingdom, the speaking of malicious and seditious words, to the disdain of his Majesty’s person and contempt of his royal government : such as drinking, or wishing confusion to his Majesty, is high treason. And the cursing, beating, invading, or assassinating of a parent, is punishable with death, &c. And that murder under trust, is punishable as treason. Nevertheless, the said Philip Stansfield shaking off the fear of God, &c. did upon the 1st, 2d, or 3d, or one or other of the days of the months of June, July, August, or September last, in the kitchen of New-Milns, as a most villainous and avowed traitor, begin a health to the confusion of his Majesty his native sovereign; and did cause others, in his company, to drink the same.

That although his father had given him a liberal education, he had taken ill courses, and been detained prisoner in the Marshalsea, in Southwark, and in the public prisons of Antwerp, Orleans, and other places; from whence his said father had released him : and that notwithstanding, he fell to his debauched and villainous courses again. Whereupon, his father signifying his intentions to disinherit him, and settle his estate upon John Stansfield his second son : the said Philip Stansfield did declare he would cut his father’s throat : particularly, that upon the 1st, 2d, or 3d : or one or other of the days of the months of January, February, March, and remaining months of January, February, March, and remaining months of the year of God, 1680, 1681, 1682, 1683, and 1684 years, or one or other of them ; he did attempt to assassinate his father, by pursuing him in the highway, &c. and firing pistols upon him : which the said Sir James his father had declared to several persons of honour in his life time.

And that upon the — day of November last, the said Sir James Stansfield, coming from Edinburgh to his house at New Milns, and going into his chamber to rest about ten o’clock at night, and being alone in the room, under the credit, trust, and assurance of the said Philip his son ; and his own servants within his family : the said Philip did consult with one George Tomson, and divers other persons, how to murder him : and that accordingly, they did murder and strangle him in his bedchamber ; and in the dead of the night carried him from the said room, and threw him into a pond near the

house. That the next morning when the body was found, the said Philip caused it to be buried in haste, and refused to stay till his friends and physicians viewed it. That the body being taken up again by authority, and inspected by surgeons, it appeared to have been strangled and not drowned. And that his nearest relations being required to lift the corpse into the coffin after it had been inspected; upon the said Philip Stansfield touching of it (according to God's usual method of discovering murder, says the framer of the indictment) it bled afresh upon the said Philip, and that thereupon he let the body fall, and fled from it in the greatest consternation; crying Lord have mercy upon me.

And that the said Philip being found by an assize to be actor, art and part of the aforesaid crimes, one or other of them: he ought to be punished, for the treasonable crimes above specified, with forfeiture of life, lands, and goods: and for the other crimes above mentioned capitally, and with the pains of death and confiscation of moveables; to the terror and example of others, &c.

Sir Patrick Hume alleged in the prisoner's defence, that as to the drinking confusion to the King it was an improbable calumny, he having upon all occasions testified his loyalty; particularly in Monmouth's rebellion, when he entered himself a volunteer in the Earl of Dunbarton's regiment; where he continued till the rebels were defeated.

As to his firing pistols at his father in 1683 and 1684, it might be proved there was an entire friendship between him and his father at that time: but if those facts were true, as they had been pardoned by the act of indemnity, so they could not be made use of as instruments now, to infer that he was guilty of this murder.

That as to the corpse bleeding when the prisoner touched it, it was a superstitious observation, founded neither upon law or reason: and quoted *Corpus ovius* and *Mattheus de Criminibus* to be of the same opinion: and said, the bleeding was occasioned by the moving of the body, and the incision the surgeons had made; and that other people touching the body at the same time, it could no more be ascribed to the prisoner than to them.

That the other circumstances laid in the indictment were but idle stories, for that it could be proved the prisoner went to bed in his own chamber that night his father was murdered, and did not stir out of his bed till called up by his father's servant next morning.

His Majesty's advocate replied, that the drinking or wishing confusion to his Majesty (which fact was not

expressly controverted) did clearly infer treason, and came within the intention of the act. All speeches in disdain and contempt of his Majesty (as this was) being by that act made so. And although the prisoner having engaged voluntarily in his Majesty's service; it was urged that these words could not be spoken deliberately and maliciously, yet they being proved to be reiterated, and the prisoner forcing others to drink the same health; the crime once committed could not be wiped off by any speeches or actions afterwards, and that the prisoner had a due sense of the importance of the words, having conjured the company to secrecy; and threatened to beat and brain them that should discover what they had done.

Whereas it is said all crimes before the year 1685, are pardoned by the indemnity, it is answered, the crime of cursing of parents was not included in a general act of indemnity; for the words of the act against cursers of parents being, that the cursers of parents shall be put to death without mercy, there required a special remission in the act of indemnity, especially where private persons are more interested than the public, as here the parent is: and also for that the indemnity extended only to those who were under the degree of an heritor, wadsetter, or burghess, which the prisoner could not pretend to be.

Although it is said, the son threatening to cut his father's throat was but a remote circumstance, and that it could not be concluded from thence that he had actually murdered him; yet he thought it such a circumstance, that unless the prisoner could shew that some other person killed him, he must be reputed the murderer.

Here the King's advocate opened the evidence, and then went on. That as the body bleeding, although several persons touched it, none of their hands were besmeared with blood but the prisoner's; and that the body having lain two days in the grave in a cold season, the blood must naturally be congealed. That the lifting about the body, and even the incision that was made, causing no such effusion before but only of some water or gore, and should upon the prisoner's first touching it begin to bleed afresh; he must ascribe it to the wonder-

ful Providence of God who in this manner discovers murder; especially since no natural reason could be assigned for it: and that the horrible impressions it made on the prisoner, notwithstanding his resolution to the contrary, might be urged as another argument of his guilt.

And that although Sir James Stansfield was melancholly and frantic in the year 1679, yet, he was known to have recovered his health, and to be of a composed, sedate temper of mind for several years past, and so capable of business as to be entrusted by the wisest men in the kingdom; nor at the time of his death had any sickness or returning frenzy upon him: besides, it appearing plainly that he was strangled, it could not be presumed that he afterwards walked out and drowned himself. And as to the prisoner's surrendering himself, it was indeed suitable to the rest of his impudence, and he might imagine by that means to make the world believe he was innocent.

The court at Edinburgh, the 7th February, 1688, met, and the assize consisting of fifteen merchants and tradesmen, being sworn without any challenge or exception to any of them, his Majesty's advocate produced his witnesses.

John Robertson, servant to the deceased, deposed, That, he saw the prisoner a little before harvest last in the kitchen at New Milns, drink confusion to the Pope, Antichrist, the Chancellor, and the King, and commanded the deponent to drink it on his knees, and that the prisoner was not drunk at that time: and, that the deponent saying it was treason, the prisoner answered, you dog, what are you concerned, you do not understand to whom you speak?

Agnes Bruce deposed, that a little before harvest last in the kitchen at New Milns, she saw the prisoner drink confusion to the Pope and the King, and made Samuel Spofforth drink the same on his knees; and it being talked of in the house about a week after, he said to this deponent, God — him, if he knew who divulged it, he would be their death.

John Robertson aforesaid, further deposed, that since harvest last he heard the prisoner wish the devil might take his father. And at another time, the deponent telling the prisoner he was going to such a place with his father, he prayed the devil might let none of them come back, either horse or man. And on other occasions he had heard the prisoner say of his father, the devil damn him, the devil rive him, &c. and said, his father girmed upon him like a sheep's head in a tongs.

William Scot deposed, he heard the prisoner wish the devil might take his father.

Agnes Bruce abovesaid, further deposed, that she had often heard the prisoner vow and swear he would kill any person that offended him. That he conversed much with Janet Johnston, George Tomson and his wife (charged with being concerned in this murder) and used after supper at his father's to go to these persons. That she has frequently heard the prisoner curse his father, and express his hatred and abhorrence of him, and say, he had hated his father these seven years; and this in his mother's presence. That, the Friday before Sir James's death, Janet Johnston was a considerable time with the prisoner in his chamber. That she thought Sir James not so merry as usual the night before his death. That, on the Saturday night when Sir James came home, he went to his lady's chamber, where he did not stay a quarter of an hour; and that his lady fell a quarrelling with him for going to another house before he came there. That the next morning when Sir James was missed, the deponent went into his chamber to make a fire, and found the bed in better order than usual, and the candle at the bed's feet, which used to be at the head. That, the deponent desiring the body might be brought up to the chamber, the prisoner answered, it should not enter there, for he had died more like a beast than a man; and that it was brought to a cellar within the close, where was very little light. That she heard the prisoner cry and lament when his father's body was found, but saw no tears. That he would have forced his father's chamber door open, but the key being found he entered, and took the gold and money out of his pocket, and then searched the cabinet; that, within an hour after his father was brought from the water he got the buckles of his shoes, and put them in his own. That a short time before Sir James died, his lady having fallen into a swoon, and afterwards telling the prisoner he was likely in a short time to lose his mother, he answered in the deponent's hearing, that his father should be dead first. That two nights after Sir James's death, the lady told this deponent that she heard the prisoner had vowed his brother's death, and little less as to his father, upon his hearing Sir James was about to settle his estate upon his brother: and, that the lady renewed the same expression to this deponent at Edinburgh, and added, what if they should put her bairn in prison.

Archibald Dumbar, merchant, deposed, that, having met the deceased at Cutler, and being with him and some other company in a room, Sir James was discoursing of his son's undutifulness, and they heard a shot at the outer door, and soon after another; and some of the company offering to go down, Sir James dissuaded them, and said, it might be he his distracted son Philip; and they asking why he should fear any harm from him, he told them that as he was going to Lothian Burn, he shot two pistols at him, and that if he had not been better mounted than his son he would have killed him: and one saying, there could not be ball in them, Sir James said he had too many proofs of his son's unnatural behaviour to him. That, Sir James went not to bed, but the deponent sat up with him that night, and conveyed him into Edinburgh.

Mr. William Clerk, advocate, deposed, that Sir James ordering him to draw a settlement, in order to dispose of his estate to his son

John; the deponent dissuaded him from it, saying, his son Philip might be reclaimed: but, Sir James answered, he had no expectation of it, for when he was at the Lead Hills there was a pistol shot at him, which he was sure came from his son Philip.

John Bell, Minister of the Gospel, deposed, that the day before Sir James died, he accompanied him from Edinburgh to his house at New Milns; and both by the way, and at supper, his discourse was rational and pertinent. That after supper, Sir James went with the deponent to his chamber, and staid with him till ten o'clock; and he discerned nothing but sound judgment in what he said.

That the deponent awoke in the night, and heard a great din and confused noise of several voices, and sometimes of persons walking, which afrightened him, and put him upon bolting his chamber door faster; that he still heard the voices, but not so plain, till they came about to the chamber window, and then he heard the voice as high as before; whereupon he rose again, and would have looked out of the window, but could not open it: that it looked into the garden and the water, whither the voices went, till he heard no more.

That he told the women who came to light his fire in the morning, that he had rested little, through the noise he heard; and that he was sure there were evil spirits about the house that night. That about an hour after day, the prisoner came to the deponent's chamber, and asked, if Sir James had been there that morning? and said, he had been seeking him on the bank of the water, and immediately went down stairs again. That the deponent followed to see what he meant, and one came running, and said, they had found Sir James lying in the water; which so astonished the deponent, that he returned trembling to his chamber, and soon after took horse.

That the deponent returning in the evening, advised the prisoner to have the corpse viewed by his friends and physicians; but he went and buried Sir James that night, without acquainting the deponent, or the honest men of the neighbourhood.

James Murehead, surgeon, deposed, that upon the prisoner's assisting to lift the body, after it had been sewed up, and clean linen put on, it darted out blood through the linen, from the left side of the neck, which the prisoner touched: but that when the deponent, and the other surgeon put on the linen, and stirred and moved the head and neck before, he saw no blood at all.

The College of Physicians at Edinburgh, having, at the desire of his Majesty's advocate, considered the said report of the surgeons, delivered their opinions, that there was sufficient grounds to believe the said Sir James Stansfield was strangled and not drowned.

James Mitchel, nephew to the deceased, deposed, that about twenty days before Sir James's death, he heard the prisoner say, that if his father disposed of his estate from him, he would kill him, though he died in the Grass Merret for it.

His Majesty's advocate desired that James Thomson, son to George Thomson, and Anna, daughter to Janet Johnstown, spouse to the said James Thomson, might

be examined as witnesses against the prisoner; but the prisoner's council opposed it, for that they were but children, the boy being about thirteen, and the girl about ten years of age: whereupon the court refused to admit them, but the jury desired that they were permitted to declare what they knew, viz.

The said James Thomson declared, that Janet Johnstown came to George Thomson's (his father's) house, between nine and ten o'clock that night Sir James was killed, and that the prisoner came thither soon after. That the declarant's mother ordered him to go to bed, which was in the same room, and beat him because he did not go presently. That Anna Mark, the said Janet's daughter, came for her to give her child suck, but that Janet staid a considerable time after, and whispered with the said George Thomson, and the declarant says further, that he heard the prisoner complain, that his father would not give him money, and prayed the devil might take his father, and God d—n his own soul if he should not make an end of his father, and then all would be his, and he would be kind to them. Declared Philip Stansfield and Janet Johnstown went away about eleven o'clock, and soon after his father and mother came to bed. But the declarant perceived his father and mother rose afterwards in the night, and went out of the house, and staid away an hour and half, or two hours. That his mother came in first, that the declarant pretended to be asleep when they returned, and that he heard his father say, the deed was done, and that the prisoner guarded the door with a drawn sword and a bended pistol, and that he never thought a man would have died so soon; and that they carried him out to the water-side, and tied a stone about his neck; and leaving him there, they came back to the little kiln, and considered if they should cast him in the water with the stone about his neck or not, and whether they should cast him in far, or near the side; and at length they returned, and took away the stone from about his neck, and threw him in the water: and his father said, he was afraid, for all that, that the murder would come out. And his mother said, hout fool, there is no fear of that; it will be thought he has drowned himself. Declared, that when Sir James was found in the morning, his mother said to his father, rise quickly for if you be found in your bed, they will say that you have a hand in the murder. Declared, that the coat and waistcoat Sir James had on in the water, being sent to their house, his mother said, she was frightened at it, and desired his father to send it away; that his mother said she was afraid to stay in the house in the evening, and therefore went out with his father, if he went out, ever since Sir James died, which she did not use to do before.

Anna Mark, daughter to Janet Johnstown, declared, that on the Saturday night Sir James was killed, the prisoner came to her mother's house, and sent for George Thomson and his wife, and then sent her to see if Sir James was come home? and upon her bringing word that Sir James was come, the prisoner ran down to New Milns. That about eleven o'clock the same night, her father sent her to find her mother, and that she found her with the prisoner, at

George Thomson's house, but that her mother did not come home till two in the morning. Whereupon her father said, b—, w—, where have you been so long? and she answered, wherever I have been, the deed is done, and then went to bed. And that her mother, ever after that, was afraid to be alone.

Then his Majesty's advocate protested for an assize of error against the inquest, in case they should acquit the prisoner.

But the jury found the prisoner Guilty of all the facts laid in the indictment; viz. Of treason, cursing his father, and being accessory to his murder.

The assize finding him guilty, the lords of justiciary ordered him to be hanged on the 15th of February, at the cross of Edinburgh, and his tongue to be cut out for cursing his father, and his right hand to be cut off for the parricide, and his head to be put upon the East Port of Haddington, as nearest to the place of murder, and his body to be hung up in chains betwixt Leith and Edinburgh, and his lands and goods to be confiscated for the treason.

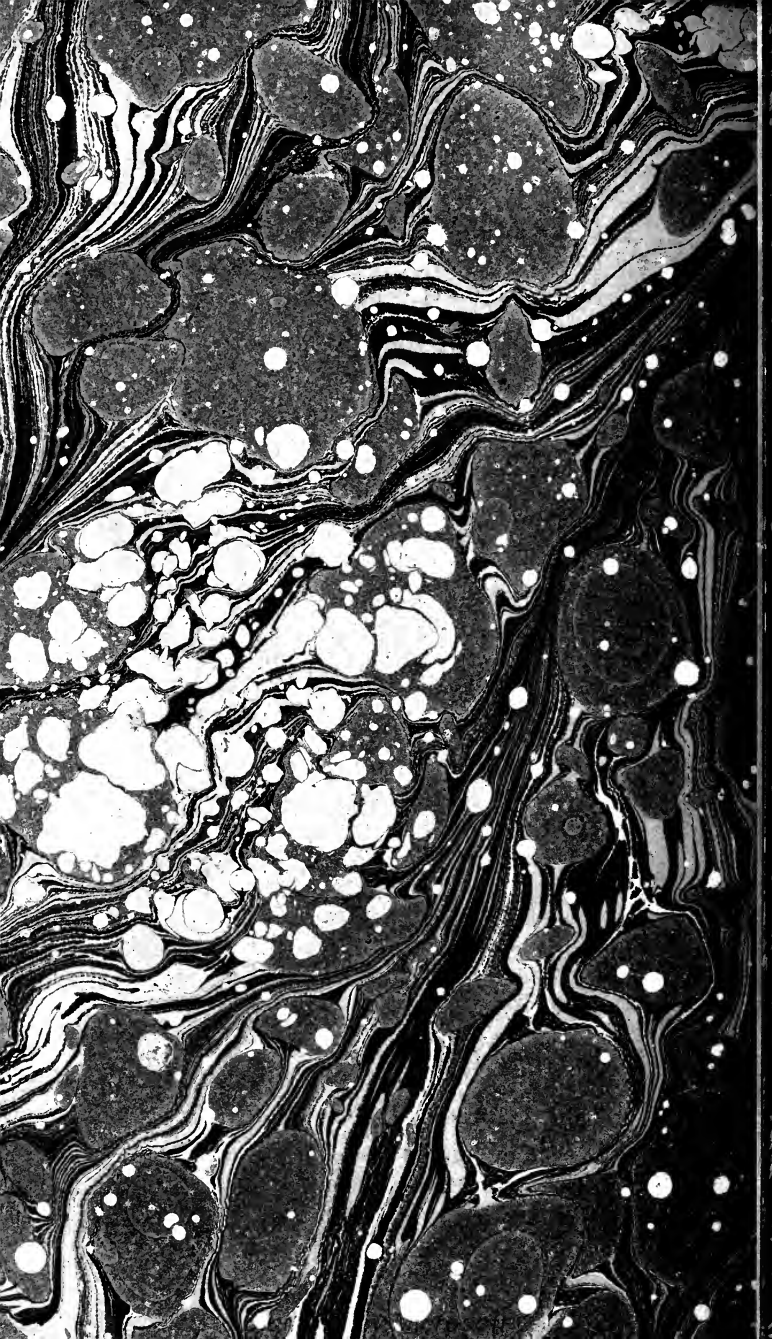
All this was rigorously put into execution. "Some thought," says Lord Fountainhall, a contemporary judge, "if not a miraculous, yet an extraordinary return of the imprecations was the accident of the slipping of the knots on the crosse, whereby his feet and knees were on scaffold, which necessitated them to strangle him, bearing therein a near resemblance to his father's death; and a new application having been made that they might be allowed to bury him, Duke Hamilton was for it, but the Chancellor would not consent, because he had mocked his religion; so his body was hung up, and some days after being stolen down, it was found lying in a ditch among some water, as his father's was: and by order was hung up again, and then a second time was taken down."

END OF VOL. II.

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